Docket #0576 Date Filed: 05/17/2023

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	Chapter 11
TEHUM CARE SERVICES, INC.	Case No. 23-90086 (CML)
Debtor.	

MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF *PRO SE* LITIGANTS' REQUESTS FOR NOTICE AND OPPORTUNITY TO PARTICIPATE IN CHAPTER 11 PROCEEDINGS AND CERTAIN OBJECTIONS TO ENTRY OF A FINAL DIP ORDER

The American Civil Liberties Union, the Center for Constitutional Rights, Public Justice, Rights Behind Bars, the Roderick & Solange MacArthur Justice Center, and the Southern Center for Human Rights (together, the "proposed *amici*"), by and through undersigned counsel, hereby move for leave to file an *amicus curiae* brief in this case.

"The decision whether to permit a person to appear as amicus curiae is committed to the Court's discretion." *Sec. Inv. Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, 550 B.R. 241, 256 (Bankr. S.D.N.Y. 2016); *see also In re Ginaldi*, 463 B.R. 314, 316 (Bankr. E.D. Pa. 2011) (recognizing bankruptcy court has "broad

discretion to permit an amicus curiae to participate in a pending action"); *In re Edison Mission Energy*, 610 B.R. 871, 878 (Bankr. N.D. Ill. 2020) (same); *United States v. Alkaabi*, 223 F. Supp. 2d 583, 592 (D.N.J. 2002) (same).

Although there is no rule in the Federal Rules of Bankruptcy Procedure or the Local Bankruptcy Rules of this Court governing the appearance of *amicus curiae* in these proceedings, Federal Rule of Appellate Procedure 29 provides that a motion for leave to appear as *amicus curiae* "must be accompanied by the proposed brief and (A) state the movant's interest and (B) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case." F.R.A.P. 29(a)(3). The Fifth Circuit, in the context of a bankruptcy case, has explained:

> An amicus brief should normally be allowed when a party is not represented competently or is not represented at all, when the amicus has an interest in some other case that may be affected by the decision in the present case (though not enough affected to entitle the amicus to intervene and become a party in the present case), or when the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.

In re Halo Wireless, Inc., 684 F.3d 581, 596 (5th Cir. 2012) (quoting *Ryan v. CFTC*, 125 F.3d 1062, 1063 (7th Cir. 1997)). The Fifth Circuit has also explained that courts would be "well advised to grant motions for leave to file amicus briefs unless it is obvious that the proposed briefs do not meet Rule 29's criteria as broadly interpreted" because "if a good brief is rejected," the court "will be deprived of a

resource that might have been of assistance." *Lefebure v. D'Aquilla*, 15 F.4th 670, 676 (5th Cir. 2021).

Here, the proposed *amicus curiae* brief satisfies the conditions set forth in Federal Rule of Appellate Procedure 29 because it helps represent the interests of pro se incarcerated litigants, and also offers a unique perspective regarding the barriers incarcerated people face in accessing the courts that raise unique due process concerns in the bankruptcy context.

Interest of Proposed *Amici*

Consistent with Federal Rule of Appellate Procedure 29, proposed *amici* have a strong interest in this case. They are non-profit, civil rights organizations with decades of experience advocating for the rights of incarcerated people, including involvement in litigation relating to Corizon's failures to provide adequate care. As a result, they have a strong interest in defending the rights of incarcerated people who may have claims against Corizon. Proposed *amici* also have a strong interest in ensuring that the bankruptcy process does not became a tool for corporations to evade accountability for civil rights abuses.

The **American Civil Liberties Union** ("ACLU") is a nationwide, nonprofit, nonpartisan organization of more than 1.7 million members dedicated to protecting the fundamental rights guaranteed by the Constitution and the laws of the United States. Consistent with that mission, the ACLU established the National Prison

Project ("NPP") in 1972 to protect and promote the civil and constitutional rights of incarcerated people. NPP has decades of experience in complex prisoners' rights class action suits, including multiple cases regarding minimal standards for correctional health care in jurisdictions where debtor Corizon has operated or continues to operate.

The **Center for Constitutional Rights** ("CCR") is a national, not-for-profit legal, educational, and advocacy organization dedicated to protecting and advancing rights guaranteed by the U.S. Constitution and international law. Founded in 1966 to represent civil rights activists in the South, CCR has litigated numerous landmark civil and human rights cases. CCR has represented numerous incarcerated people in state and federal custody across the country challenging their conditions of confinement. As such, CCR is deeply familiar with the barriers to participation in court proceedings—bankruptcy or otherwise—faced by incarcerated people and is committed to dismantling those barriers.

Public Justice is a national public interest legal organization that specializes in precedent-setting, socially significant civil litigation, with a focus on fighting corporate and governmental misconduct. The organization maintains an Access to Justice Project that pursues litigation and advocacy efforts to remove procedural obstacles that unduly restrict the ability of consumers, workers, and people whose civil rights have been violated to seek redress in the civil court system. Public Justice

has engaged in significant advocacy efforts to prevent abuse of the bankruptcy system to evade the civil justice system, which hinders and delays justice for survivors of corporate wrongdoing. For example, Public Justice filed an *amicus curiae* brief opposing Johnson & Johnson's use of the Texas Two Step; the Third Circuit recently dismissed that bankruptcy. *In re LTL Mgmt., LLC*, 64 F.4th 84 (3d Cir. 2023).

Rights Behind Bars (RBB) legally advocates for people in prison to live in humane conditions and contributes to a legal ecosystem in which such advocacy is more effective. RBB seeks to create a world in which people in prison do not face large structural obstacles to effectively advocating for themselves in the courts. RBB helps incarcerated people advocate for their own interests more effectively and through such advocacy push towards a world in which people in prison are treated humanely.

The **Roderick & Solange MacArthur Justice Center** ("MJC") is a not-for-profit organization founded by the family of J. Roderick MacArthur to advocate for civil rights and a fair and humane criminal legal system. As part of this mission, MJC represents incarcerated and formerly incarcerated individuals in cases concerning medical care, conditions of confinement, and access to courts. MJC has served as merits counsel, *amicus* counsel, or *amicus curiae* in numerous cases around the country related to these issues, in both state and federal courts. As such,

MJC has both expertise and interest in ensuring that people incarcerated in prisons and jails have sufficient due process protections in bankruptcy court proceedings.

The **Southern Center for Human Rights** ("SCHR") is a nonprofit law firm dedicated to advancing equality, dignity, and justice for people impacted by the criminal legal system. Through litigation and advocacy, SCHR has worked for over 45 years to defend the civil and human rights of incarcerated people, ensure humane conditions of confinement in jails and prisons, and end degrading law enforcement practices. In light of its experience, SCHR has a unique perspective on the issues raised in this case, including the due process rights of people in prisons and jails, and an interest in ensuring that those rights are protected in any context, including bankruptcy court.

Desirability and Relevance

The proposed *amicus curiae* brief is also desirable and relevant, in accordance with how that standard has been interpreted by the Fifth Circuit. The Fifth Circuit has recognized that *amicus curiae* briefs are particularly desirable, relevant, and proper when they support parties that are not adequately represented in these proceedings and then they present unique information or a unique perspective that can aid the court. *See In re Halo Wireless, Inc.*, 684 F.3d 581, 596 (5th Cir. 2012). This brief does both.

First, the primary purpose of the brief is to further defend the arguments of incarcerated pro se litigants regarding the unique barriers they have face in accessing and participating in this bankruptcy proceeding. The brief also makes arguments regarding notice and due process on behalf of known and unknown potential creditors that do not know these proceedings are happening or how their rights will be impacted by these proceedings. Other parties to this litigation do not have the same incentives as *amici* to ensure adequate notice of additional incarcerated creditors. Nonprofit, civil rights organizations are well-positioned to represent those interests that may not otherwise be adequately represented in the bankruptcy proceeding.

Second, proposed *amici* present a unique perspective that will aid the court in effectively safeguarding the due process rights of incarcerated creditors. These bankruptcy proceedings present a unique situation where many of the creditors are unrepresented and currently incarcerated. The perspective of proposed *amici* will be useful because they are non-profit, civil rights organizations with decades of experience advocating for the rights of incarcerated people and are familiar with the barriers that incarcerated people face in accessing the legal system. Proposed *amici* have a unique perspective regarding how those barriers may pose a threat to the due process rights of incarcerated people in thesebankruptcy proceedings, as well as creative ideas for how this Court can help safeguard those due process rights. The

amicus curiae brief highlights very practical facts and aspects of civil rights law that have not been discussed before this Court and may lead this Court to modify its procedures for notifying and adequately including incarcerated creditors in this bankruptcy. Accordingly, *amici*'s proposed *amicus curiae* brief is desirable and relevant.

For the foregoing reasons, *amici* respectfully submit that the attached proposed *amicus curiae* brief satisfies the standard in Federal Rule of Appellate Procedure 29, and request the Court exercise its discretion to accept this brief.

CONCLUSION

For the reasons stated above, proposed *amici* request that this Court grant this motion for leave to file an *amicus curiae* brief.

Dated: May 17, 2023

Submitted,

/s/ Jaqueline Aranda Osorno
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Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served on May 17, 2023, via this Court's electronic case filing (ECF) system on all parties receiving ECF notices in this case.

/s/ Jaqueline Aranda Osorno
Jaqueline Aranda Osorno

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BRIEF OF *AMICUS CURIAE* IN SUPPORT OF *PRO SE* LITIGANTS' REQUESTS FOR NOTICE AND OPPORTUNITY TO PARTICIPATE IN CHAPTER 11 PROCEEDINGS AND CERTAIN OBJECTIONS TO ENTRY OF A FINAL DIP ORDER

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CORPORATE DISCLOSURE STATEMENT

Amici American Civil Liberties Union, Center for Constitutional Rights, Public Justice, Rights Behind Bars, the Roderick & Solange MacArthur Justice Center, and the Southern Center for Human Rights are all nonprofit organizations. None of the amici have a parent company, and no publicly held company has 10% or greater ownership interest in any of the amici.

INTRODUCTION[1]

The American Civil Liberties Union, the Center for Constitutional Rights, Public Justice, Rights Behind Bars, the Roderick & Solange MacArthur Justice Center, and the Southern Center for Human Rights submit this brief as *amici curiae* in support of *pro se* litigants' requests for notice and opportunity to participate in the Chapter 11 proceedings, and certain creditors' objections to entry of a final Debtor-in-Possession (DIP) order. Docs. 332, 337, 445, 490, 539. This case implicates the rights of hundreds—if not thousands—of incarcerated people across the country who have been harmed by the debtor's systemic failures to provide adequate health care to incarcerated people. The debtor, previously operating as Corizon Health Inc., now seeks to abuse Texas corporate law and the U.S. bankruptcy system to avoid liability for over a decade of wrongdoing.

Amici are non-profit, civil rights organizations with decades of experience advocating for the rights of incarcerated people, including involvement in litigation relating to Corizon/Tehum's failures to provide adequate care. As a result of that advocacy, *amici* are familiar with the barriers that incarcerated people face in accessing the legal system. *Amici* believe that those barriers will prevent incarcerated creditors from asserting their rights in these bankruptcy proceedings, and that the

[1] No party's counsel authored this brief in whole or in part, no party or party's counsel contributed money intended to fund this brief, and no person other than *Amici*, their members, and their counsel contributed money to fund this brief.

Court's order relating to the bar date and manner for filing proofs of claim (the "Bar Date Order") does not comport with due process requirements. *See* Doc. 499. These concerns are further magnified in light of Corizon's unprecedented use of a Texas divisional merger to shield its assets, and the execution of a potentially collusive funding agreement.

For these reasons, *amici* request that the Court reconsider what process is due to incarcerated creditors, particularly in regard to notice of the bar date and the process for handling *pro se* motions. Further, in light of serious due process concerns and Corizon's deeply troubling exploitation of the bankruptcy process, *amici* request that the Court not approve the DIP financing agreement, which will facilitate further abuse of the bankruptcy system and harm the rights of incarcerated creditors who very likely do not know these proceedings are taking place.

INTEREST OF *AMICI*

The **American Civil Liberties Union** ("ACLU") is a nationwide, nonprofit, nonpartisan organization of more than 1.7 million members dedicated to protecting the fundamental rights guaranteed by the Constitution and the laws of the United States. Consistent with that mission, the ACLU established the National Prison Project ("NPP") in 1972 to protect and promote the civil and constitutional rights of incarcerated people. NPP has decades of experience in complex prisoners' rights class action suits, including multiple cases regarding minimal standards for

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ARGUMENT

Since its formation in 2011, Corizon (the Debtor's corporate predecessor) was one of the nation's largest providers of correctional health care services in the United States, at one point responsible for delivering health care to over 300,000 people incarcerated in state prisons and county jails across the country. Doc. 75 at 3. For over a decade, Corizon maximized profits by systematically providing substandard care—and sometimes no care at all—subjecting incarcerated people to a substantial risk of serious harm and death. Indeed, a federal district court found that the State of Arizona's prison health care system, which Corizon was responsible for administering between 2013 and 2019, "is plainly grossly inadequate." *Jensen v. Shinn*, 609 F. Supp. 3d 789, 796 (D. Ariz. 2022). As the Court detailed in its 200-

page opinion, multiple incarcerated people died or were seriously harmed as a direct result of Corizon's failure to provide timely and adequate health care. *See id.* at 815-16, 818-22, 827-30, 903 n.70. Many more suffered prolonged and preventable pain and suffering. *Id.*

The harm that Corizon perpetrated while serving as the health care provider in Arizona reflects a well-documented pattern of neglect and deliberate indifference to the lives of the incarcerated people. S*ee, e.g.*, *Jones v. Cnty. of Kent*, Judgment, ECF No. 244, No. 1:20-cv-36, (W.D. Mich. 2022) ($6.4 million judgment in wrongful death action against Corizon for deliberate indifferent to incarcerated person's alcohol withdrawal); *Pitkin v. Corizon Health, Inc.*, Judgment, ECF No. 109, No. 3:16-CV-02235-AA, (D. Or. Mar. 13, 2018) ($10 million judgment in wrongful death action against Corizon for its deliberate indifference to incarcerated person's severe, progressing, and life-threatening opioid withdrawal); *Oyenik v. Corizon Health Inc.*, 696 F. App'x 792, 794 (9th Cir. 2017) (finding that incarcerated person had provided proof of at least a dozen instances of Corizon denying or delaying consultations, biopsies, and radiation treatment for prostate cancer over the course of almost a year); New York City Department of Investigation, *Investigation Finds Significant Breakdowns by Corizon Health Inc., the City-Contracted Health Care Provider in the City's Jails, and a Lack of Oversight by the City Correction and Health Departments* (June 2015), (finding that Corizon's failure to screen and

supervise staff "cannot be disassociated from the illegal activity and inmate deaths and injuries that have occurred").[2]

Facing mounting liability for that pattern of unlawful conduct, in mid-2022, Corizon began to take steps to effectuate a financial and corporate scheme designed to evade as much liability as possible for over a decade of egregious behavior. Corizon exploited a quirk in Texas corporate law to do what is now colloquially known as the "Texas Two-Step." *See Jackson v. Corizon Health Inc.*, 2022 WL 16575691, at *1 (E.D. Mich. Nov. 1, 2022); Michael Francus, *Texas Two-Stepping Out of Bankruptcy*, Mich. L. Rev. Online (June 11, 2022). Step One: Corizon effectuates a divisional merger under Texas corporate law where it splits itself into two new corporate entities: Tehum Care Services Inc. ("Bad Co.") and CHS TX ("Good Co."). Corizon dumps all its outstanding liabilities and one million dollars into Bad Co. and put all assets—including all employees, active contracts, real estate, equipment and most of its cash—into Good Co.[3] Step Two: Liability-laden Bad Co. declares bankruptcy. Meanwhile, the Good Co. entity—with all the assets—rebrands itself as YesCare and continues business as usual, free from most debt and liabilities. Through this manipulation of Texas corporate law and the bankruptcy

[2] Available at https://www.nyc.gov/assets/doi/press-releases/2015/jun/pr16corizonrpt_61015.pdf.
[3] Good Co.—or CHS TX—remained owned by the same, sole shareholder as Corizon, and was managed by the same CEO and Chair, Sara Tirshwell, that had managed Corizon prior to the divisional merger. *Id*.

process, Corizon has effectively shielded its assets from its creditors. It has also secured an expansive stay of civil cases not just against itself, but also against correctional entities that are indemnified by Corizon. Justice for incarcerated and formerly incarcerated people—as well as many other creditors—has ground to a halt.

Section I of this brief explains that incarcerated creditors face unique obstacles that impinge on their right to appear and be heard in these proceedings. These unique obstacles demand careful consideration in deciding how to best protect the rights of incarcerated people in these proceedings.[4] Section II argues that the Bar Date Order fails to protect incarcerated people's right to notice, and Section III argues that the Court's process for handling *pro se* motions must meaningfully protect incarcerated people's right to notice and an opportunity to be heard. Finally, Section IV explains how the DIP financing agreement, if ordered, will significantly reduce, or even eliminate, the ability of incarcerated creditors to recover. The Court should delay entering a final DIP order until it is satisfied that it has complied with incarcerated creditors' due process rights.

I. INCARCERATED CREDITORS FACE UNIQUE OBSTACLES THAT IMPINGE ON THEIR RIGHT TO APPEAR AND BE HEARD IN THESE PROCEEDINGS

[4] *Amici* do not concede that this case is properly in bankruptcy court.

It is well-established that incarcerated people have a constitutional right of access to the courts. *Lewis v. Casey*, 518 U.S. 343, 350 (1996) (citing *Bounds v. Smith*, 430 U.S. 817, 821 (1977)). The Supreme Court has specifically recognized incarcerated people's right to access the courts to challenge the conditions of their confinement. *See Wolff v. McDonnell*, 418 U.S. 539, 579 (1974). Here, incarcerated creditors all have claims that do just that, from the substandard (or nonexistent) provision of health care to the horrific sexual abuses perpetrated by Corizon doctors. *See* Docs. 94 at 1, 94-1, 376 at 2, 376-1. However, these incarcerated creditors face significant barriers to pursue their claims and defend their interests in these bankruptcy proceedings. They have limited access to legal authority regarding bankruptcy or corporate law, are often unable to access postage, experience frequent mail delays, have limited phone access. Many also have to overcome limited literacy.

Limited Access to Legal Authority. Since *Casey*, incarcerated people do not have a freestanding right of access to law libraries, and to the extent they have any access, it is at the discretion of prison officials. Libraries do not have access to the Internet. Legal authority is often outdated or completely absent for certain subject matters or jurisdictions. For example, in this case, incarcerated creditors have reported the following to the Court:

- "[He] can't access the Procedures for Complex Bankruptcy Cases in the Southern District of Texas because he doesn't have web access." Doc. 282 at 1.

- "We lack access to internet services." Doc. 316 at 1.

- "The prison library. . . has no bankruptcy or corporate law [materials] and it is only contained within two (2) computers. These two computers must be shared with an estimated population of 1,100 inmates and if he can actually get on the computer, he is limited to (1) hour per day." Doc. 329 at 2.

- "[H]e has extremely limited access to the law library due to the COVID-19 restrictions" and "limited access to legal material as it relates to bankruptcy." Doc. 392 at 1.

- "The legal resources available to Creditor are limited to the State laws that apply to State of Arizona, and no other legal resources are available to Creditor, and Creditor does not have access to the internet or other legal research resources." Doc. 438 at 4.

- "Creditor is allowed only five hours per week on the law library computer, and the MDOC uses a very limited version of Lexis that will not allow him to access the Texas Courts website to access documents and filings." Doc. 479 at 2.

- "MDOC uses a very low version of Lexis on their law library computers and out of state court websites are not available to prisoners." Doc. 480 at 1.

Inability to Access Postage. The most common and accessible way for incarcerated people to access the courts is via U.S. mail. But even getting a filing in the mail can be difficult. It is not uncommon for incarcerated people to lack access to paper, writing instruments, and postage. A 2021 survey of all 50 states and the Federal Bureau of Prisons found that free basic supplies, including postage, are

provided only to those deemed "indigent," a term that is often narrowly defined. Tiana Herring, *For the poorest in prison, it's a struggle to access even basic necessities*, Prison Policy Initiative, (Nov. 18, 2021)[5] (finding that monetary thresholds for determining indigency range from 0-25 dollars). This survey also found that "the number of free letters allowed range from one per month in Ohio to seven per week in Maryland. In some states, people have to choose between using their mail supplies for personal or legal mail, as they aren't always considered separate services." *Id.* Difficulty accessing postage is an especially serious problem in bankruptcy proceedings where important procedural decisions that impact the rights of all creditors are made very quickly—often faster than a mail filing takes to get delivered—and where creditors risk forfeiting their claims if they fail to take timely action.

Frequent Mail Delays. As one creditor described in this case, he "is receiving multiple motions, filings, etc. from Tehum in a very sporadic manner, with most being received weeks after filing with responses due in just days." Doc. 479 at 2. In *Amici*'s experience, such delays are standard and result from correctional facilities' failure to receive, screen, and deliver legal mail in a timely manner. These delays can also contribute to incarcerated people missing filing deadlines—through no fault

[5] Available at https://www.prisonpolicy.org/blog/2021/11/18/indigence/.

of their own—thereby preventing their ability to meaningfully assert their rights. Given the fast pace of bankruptcy proceedings and its complex and inaccessible procedures, frequent mail delays pose a particularly unique obstacle.

Limited Phone Access. Incarcerated people's ability to make phone calls is severely restricted. In Alabama, for example, an incarcerated person can only make calls to phone numbers on an approved list that can only be changed once every six months. Ala. Dept. of Corr. Admin. Reg. 431, Inmate Telephone System (2005).[6] Additionally, access to a phone for a purpose other than making a legal call is a privilege that can be restricted by correctional officials. *See, e.g., Armstrong v. Lane*, 771 F. Supp. 943, 949 (C.D. Ill. 1991) (upholding denial of telephone access to prisoners in segregation). In addition to these institutional barriers, calls are often cost-prohibitive. *See generally* Peter Wagner and Wanda Bertram, *State of Phone Justice 2022*, Prison Policy Initiative, (Dec. 2022)[7] (surveying phone rates at jails and prisons nationwide and finding that the average jail charges about three dollars for a 15-minute call).

As a result of limited access to phones, incarcerated creditors cannot freely pick up a phone to attend a court hearing or a creditors' committee meeting. *See* Docs. 147, 386, 441, 443. The inability to participate in real time in fast-moving

[6] Available at http://www.doc.state.al.us/docs/AdminRegs/AR431.pdf.
[7] Available at https://www.prisonpolicy.org/phones/state_of_phone_justice_2022.html.

proceedings only underscores why other obstacles, like mail delays and lack of access to postage, are of particularly acute concern here. With the UCC's or the Court's assistance, it is possible that telephonic participation could be facilitated for at least some incarcerated people. *See* Doc. 453 (requesting to attend hearing via video and including response from prison officials stating that video participation had to be requested by the Court); Doc. 413 (requesting that the Court contact the prison paralegal to set up a call).

Limited Literacy. Even if incarcerated people can surmount these operational hurdles in a prison setting, the reality is that many incarcerated people have limited ability to communicate via written correspondence. Nearly one-third of U.S. prisoners have little or no ability to read, and a similar percentage do not have a high school degree.[8] Similarly, studies have found that 19 percent of people in prison and 31 percent of people in jail have a cognitive disability, which affects their ability to comprehend and respond to legal documents.[9] This is especially a problem in the

[8] Bobby D. Rampey et al., *Highlights from the U.S. PIAAC Survey of Incarcerated Adults*, Nat'l Ctr. For Educ. Statistics, U.S. Dep't of Educ. at 6, B-3 (2016), https://nces.ed.gov/pubs2016/2016040.pdf (scoring the reading levels of incarcerated individuals from Level 1 to Level 5, and finding that 29 percent of incarcerated people scored *below* a Level 2 reading level. Level 2 readers "can integrate two or more pieces of information based on criteria, compare and contrast or reason about information, and make low-level inferences." Level 1 readers can only "read relatively short…texts to locate a single piece of information that is identical to or synonymous with the information given in the question or directive.").

[9] Jennifer Bronson, et al., U.S. Department of Justice, Bureau of Justice Statistics, *Disabilities Among Prison and Jail Inmates*, 2011-12 (Dec. 2015), www.bjs.gov/content/pub/pdf/dpji1112.pdf

context of bankruptcy proceedings, for which there are often complex procedural rules and questions of corporate law that make the proceedings difficult for even non-bankruptcy lawyers to fully understand, much less *pro se* litigants with low literacy levels.

Amici ask that the Court take note of these barriers when determining how to protect incarcerated creditors' right to notice and the opportunity to meaningfully participate in these proceedings. Bankruptcy proceedings raise unique due process concerns because they attempt to *resolve* all claims against the debtor. The due process required to resolve and *preclude* an incarcerated person's claim is naturally different (and more robust) than the due process required to facilitate an incarcerated person's general access to the courts. As discussed in Sections II and III, it is within the Court's power and discretion to enact additional safeguards in these proceedings to protect incarcerated creditors' due process rights.

II. THE COURT'S BAR DATE ORDER FAILS TO PROTECT INCARCERATED CREDITORS' DUE PROCESS RIGHTS

The Court's Bar Date Order fails to establish a sufficiently robust notice plan that would adequately protect the due process rights of all incarcerated creditors. Doc. 499. "An elementary and fundamental requirement of due process in any proceeding

(national survey of almost 40,000 prisoners incarcerated in more than 200 state and federal prisons, including at least one facility located in each state).

which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950). In bankruptcy proceedings, the application of due process requirements "depends on the specific circumstances of each creditor, and bankruptcy courts have distinguished the requisite notice that must be given to 'known' creditors and 'unknown' creditors." *In re Placid Oil Co.*, 463 B.R. 803, 816 (Bankr. N.D. Tex. 2012), aff'd, 753 F.3d 151 (5th Cir. 2014). Generally, "known" creditors must receive actual notice, while "unknown creditors" may receive only constructive notice. *See Chemetron Corp. v. Jones*, 72 F.3d 341, 345 (3d Cir. 1995).

In this case, the Bar Date Order fails to satisfy due process requirements in two ways. First, the list of creditors who will receive actual notice is underinclusive because it includes only incarcerated creditors with pending litigation. There is likely a significant group of incarcerated creditors who have previously notified Corizon/Tehum of their claims, but who have not filed a lawsuit in state or federal court. These creditors are "known" creditors who require actual notice. Second, the Bar Date Order's provisions on notice by publication are insufficient to provide meaningful constructive notice to any incarcerated creditor whose identity is unknown.

A. Incarcerated People Who Filed Medical Grievances with Corizon Pre-Petition Are "Known" Creditors Entitled to Actual Notice

The Bar Date Order requires Corizon/Tehum to mail notice of the bar date "only to its known creditors." Doc. 499 at 5. The Order does not describe what efforts Corizon/Tehum must make in identifying known creditors, although it does list the categories of people who will receive actual notice. Incarcerated creditors explicitly fall into a single category:[10] "all entities who are party to active litigation with the Debtor." *Id*. at 6. This approach will result in a significant number of known incarcerated creditors failing to receive actual notice.

Incarcerated creditors need not have filed suit in order to have a claim against Corizon/Tehum. The Bankruptcy Code defines "creditor" as "an entity that has a claim against the debtor," and defines "claim" as "a right to payment, whether or not such right is reduced to judgment . . . or unsecured." 11 U.S.C. § 101(5), (10). "The legislative history of the Bankruptcy Code indicates that Congress intended the term "claim" to be given a broad interpretation so that "all legal obligations of the debtor, no matter how remote or contingent will be able to be dealt with in the bankruptcy case." *In re Placid Oil Co.*, 463 B.R. at 812. In the Fifth Circuit, a claim arises "at the time of the debtor's negligent conduct forming the basis of liability." *Id.* at 813. In this case, there are possibly hundreds or thousands of incarcerated people who

[10] The list also includes a catch-all category: "all creditors and other known holders of Claims against the Debtor," but the Order does not specify how those creditors will be identified.

were harmed by Corizon's negligent conduct and thus have a claim, even if they have not yet filed suit.

Using active litigation as a proxy for identifying all known incarcerated creditors is particularly inadequate given that, under federal law (and many times, also state law), incarcerated people must exhaust administrative remedies before filing a civil suit. *See* 42 U.S.C. § 1997e(a); Mich. Comp. Laws § 600.5503; Mo. Rev. Stat. § 506.3840. This barrier to accessing the civil court system means that the number of incarcerated creditors with active lawsuits is in no way a true reflection of how many incarcerated people have a claim against Corizon. For example, until mid-November 2021, Corizon provided health care to approximately 23,000 people incarcerated by the Missouri Department of Corrections. Keith Sanders, *Centurion Health Supplants Corizon in Missouri After Court Ruling*, Prison Legal News, (Apr. 1, 2022).[11] Currently, Corizon/Tehum has only identified 28 currently or formerly incarcerated creditors (or their estate) in Missouri. Doc. 481 at 43-66. Notably, Missouri has a five-year statute of limitations for personal injury actions, including Section 1983 claims. Mo. Rev. Stat. § 516.120(4); *Sulik v. Taney Cnty., Mo.*, 393 F.3d 765, 767 (8th Cir. 2005). Thus, there may be hundreds, if not thousands, of

[11] Available at https://www.prisonlegalnews.org/news/2022/apr/1/centurion-health-supplants-corizon-missouri-after-court-ruling/.

incarcerated people with viable claims against Corizon/Tehum beyond those with active litigation.

Corizon/Tehum has the ability to ascertain the identities of additional incarcerated creditors. Correctional facilities administer internal grievance processes through which incarcerated people can raise complaints relating to their conditions of confinement, including the provision of inadequate health care; it is this process that must be exhausted before filing suit. *See* 42 U.S.C. § 1997e(a). Under at least some of its contracts with correctional institutions, Corizon was explicitly responsible for establishing policies and procedures for addressing grievances related to health care. *See e.g.,* Exhibit A at 30. Corizon was also required to aggregate grievance data in some form. *See id.* (requiring Corizon to "generate and provide to the Jail Commander a monthly report of complaints received. The reports should include, at a minimum, inmate name and identification number, date the complaint was received, complaint description, date of response, and a brief description of the resolution.") Corizon/Tehum should use this grievance data to identify additional incarcerated creditors who have claims against it.

Given the historic volume of litigation against it, both from individual litigants and in larger prison conditions cases alleging that the care Corizon provided was systemically inadequate, as well as the number of grievances routinely lodged against it, Corizon/Tehum knows that the number of incarcerated people with claims

against it well exceeds the number of lawsuits currently pending. These incarcerated creditors are entitled to actual notice. *See In Matter of Motors Liquidation Co.*, 829 F.3d 135, 159 (2d Cir. 2016) ("If the debtor knew or reasonably should have known about the claims, then due process entitles potential claimants to actual notice of the bankruptcy proceedings.").

For these reasons, the Court should order Corizon/Tehum to engage in a meaningful effort—including, but not necessarily limited to, a review of grievances filed by Corizon patients, of pending litigation in federal and state court, and notices of claims filed in accordance with state law—to identify additional known incarcerated creditors who, consistent with due process, are entitled to actual notice of the bar date. *See Chemetron*, 72 F.3d at 345. Actual notice should be provided, and the Court should consider whether, in light of the delay in identifying these additional known creditors, the bar date should be extended.

B. Due Process Requires Constructive Notice Efforts that Exceed One-Time Publication in Prison Legal News

The constructive notice efforts required under the Bar Date Order do not adequately protect the due process rights of incarcerated creditors. Although constructive notice by publication may satisfy due process, that notice must still be "reasonably calculated, under all of the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their

objections." *Placid Oil*, 463 B.R. at 816-17. The Bar Date Order requires Corizon/Tehum to publish the bar date notice "on one occasion in the national edition of the *Wall Street Journal*, the *New York Times*, and *Prison Legal News*." Doc. 499 at 7. But as Corizon/Tehum is well aware, incarcerated people cannot freely access most periodicals, and it is doubtful that all of the prisons and jails in jurisdictions where Corizon has operated subscribe to the *Journal* or the *Times*. Furthermore, some correctional facilities and systems ban the circulation of *Prison Legal News* (*PLN*). *See Prison Legal News v. Secretary, Florida Dep't of Corrs.*, 890 F.3d 954 (11th Cir. 2018). Even if an incarcerated creditor has access to *PLN*, which is published only monthly, by the time the relevant edition is circulated inside correctional facilities, incarcerated creditors will likely have less than two months to obtain and file a proof of claim before the August 14, 2023, bar date. *See* Doc. 499 at 2.

Given the unique circumstances of incarcerated people, more robust notice is warranted, particularly if the Court does not require actual notice to be given to hundreds of other known incarcerated creditors with pre-petition claims. The Purdue Pharmaceutical bankruptcy provides a useful reference for how extensive a notice plan could be. In that case, notice reached an estimated ninety-five percent of all adults in the country through a variety of means beyond publication in periodicals, with an average message frequency exposure of six times. Supp. Decl. Jeanne C.

Finegan, *In re Purdue Pharma L.P., et al.*, No. 19-23649, Doc. 1179 at 3 (Bankr. S.D.N.Y. 2019). Of note, in addition to mailing actual notice and the applicable proof of claim form to known creditors, Purdue created a two-page, full-color summary flyer that was mailed to every prescriber of Purdue brand name medications, as well as third-party organizations and community organizers likely to interact with the impacted creditor population. *Id.* at 4, 10.

A similar approach could and should be taken in this case. For example:

- Recognizing the low literacy and education rates pervasive throughout the criminal legal system, the Court should order Corizon/Tehum to create materials that use plain, easy to understand language. Like in the Purdue bankruptcy, Corizon/Tehum could create a flyer that explains, at a minimum, who Corizon is and the dates during which it provided health care services in that jurisdiction and at which facilities, what a "claim" is, what a "proof of claim" is, who can file a claim, what a creditor's basic rights are, and how to request a proof of claim form. *See* Exhibit B (informational flyer in Purdue bankruptcy). The Proof of Claim form should also be simplified. These materials also must be translated into non-English languages commonly spoken in the prison and jail facilities where the company provided services, *e.g.*, Spanish, Haitian Creole, Vietnamese, or other languages. Notice must also be provided to people in prison/jail facilities in formats accessible to people with disabilities, *e.g.*, audio recordings for people with vision impairments or who are blind, and video recordings of American Sign Language for people who are d/Deaf, as required by federal disability laws.

- Recognizing that the impact of notice by publication will be negligible under the current Order, the Court should order Corizon/Tehum to identify additional means for distributing notice. Corizon/Tehum should identify legal service providers and community organizations who work with currently and formerly incarcerated people in the jurisdictions Corizon/Tehum formerly served and provide them with physical and electronic copies of an informational flyer for widespread distribution.

Amici have no doubt that, if asked for assistance, numerous organizations would answer the call to help disseminate this information.

- Recognizing incarcerated people's inability to access legal information and legal documents, the Court should accept handwritten Proofs of Claim even if they do not conform substantially with the official form.

III. THE COURT'S PROCEDURES FOR CONSIDERING *PRO SE* MOTIONS MUST AFFORD PRO LITIGANTS SUFFICIENT DUE PROCESS

The Court held a status conference on May 11, 2023, to consider a collection of *pro se* motions. Docs. 490, 548-49. At that hearing, counsel for the Debtor represented to the Court that it had devised a procedure for handling *pro se* motions. The proposal included excusing the Debtor from responding in writing and proposed holding non-evidentiary hearings monthly. The Court indicated it would hold recurring hearings to rule on *pro se* motions but would not hear any argument. As of the date of this filing, that proposal has not been filed and cannot be scrutinized.

Like all other creditors, incarcerated creditors "may raise and may appear and be heard on any issue." 11 U.S.C. § 1109(a). *Amici* ask the Court to consider the barriers incarcerated people face in accessing the legal system and ensure *pro se* litigants' due process rights to notice and an opportunity to be heard are protected. *See supra* Section I. *Pro se* litigants who file motions that raise difficult or important legal questions should be given an opportunity to be heard by the Court in the same way a non-*pro se* or non-incarcerated litigant would have the opportunity to be heard. And

the Court should, at a minimum, ensure those litigants have access to the proceedings that do take place as well as timely access to case filings, so that they may adequately represent their interests in proceedings in which their rights are at stake. Ensuring *pro se* litigants' due process rights are protected in this bankruptcy proceeding may require the Court to take creative measures, but that is fitting given the unique and unprecedented circumstances of this case. *Amici* also ask that the Court consider the *pro se* litigants' limited access to legal authority and liberally construe the arguments contained in *pro se* motions "so as to do justice." *Cf.* Fed. R. Civ. P. 8(e); *see Erickson v. Pardus*, 551 U.S. 89, 94 (2007) ("A document filed *pro se* is 'to be liberally construed' and 'a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.'") (internal citations omitted).

Finally, this Court should consider appointing *amici* to address important legal issues raised by *pro se* litigants or issues that the Court recognizes would implicate the interests of *pro se* creditors. *See Morales v. Turman,* 820 F.2d 728, 731 (5th Cir. 1987) (recognizing court's authority to appoint *amicus curiae*); *see also Wallaesa v. Fed. Aviation Admin.*, 824 F.3d 1071, 1077 (D.C. Cir. 2016) (appointing counsel for *amicus curiae* for limited purpose of presenting certain arguments in favor of *pro se* litigant); *Bowie v. Maddox*, 642 F.3d 1122, 1136 n.6 (D.C. Cir. 2011) ("It is precisely because an untrained *pro se* party may be unable to identify and articulate the

potentially meritorious arguments in his case that we sometimes exercise our discretion to appoint *amici*."); 4 Am. Jur. 2d Amicus Curiae § 7. The right to appoint *amicus curiae* extends to bankruptcy courts. *See In re City of Bridgeport,* 128 B.R. 30, 32 (Bankr. D. Conn. 1991) (recognizing courts have broad discretion to appoint *amici curiae*); *In re Megan-Racine Assocs., Inc.*, 176 B.R. 687, 694 (Bankr. N.D.N.Y. 1994) (same).

IV. THE COURT SHOULD NOT ENTER A FINAL DIP ORDER UNTIL IT IS ASSURED INCARCERATED CREDITORS' DUE PROCESS RIGHTS ARE PROTECTED

The due process concerns outlined above are particularly concerning given the unprecedented nature of this bankruptcy proceeding. The "Texas Two Step" is a tactic that has only been used in a handful of asbestos mass tort cases, and the Third Circuit recently dismissed such a bankruptcy on the grounds that it was filed in bad faith and served no valid bankruptcy purpose. *See In re LTL Mgmt., LLC*, 64 F.4th 84, 110 (3d Cir. 2023).

This case is even more troubling than *LTL Management*. In that case, there was a robust funding agreement ensuring that the liability-laden spin-off entity would be able to pay off creditors. The debtor repeatedly argued that the existence of the funding agreement is what prevented that case from being a clear abuse of the bankruptcy process to evade civil liability. *See* Informational Brief of the Ad Hoc Committee of Certain Talc Claimants Re: Second Bankruptcy Filing by LTL

Management, ECF No. 79 at 6-8, No. 23-12825, *In re LTL Mgmt., LLC,* (Bankr. D.N.J. Apr. 10, 2023). In this case, there is not even an attempt to meaningfully fund the liability-laden spin-off entity that is declaring bankruptcy. Numerous filings reference the existence of a $15 million funding agreement—which is woefully inadequate to cover the creditors' claims—and that funding agreement is subject to certain conditions. *See* Doc. 7 at 2; Doc. 223 at 2. The nature of those conditions is unknown because Corizon/Tehum still has not shared the funding agreement with this Court.

A Texas Two Step with no funding agreement is a clear abuse of the bankruptcy system and likely a fraudulent transfer under the Bankruptcy Code. The Third Circuit, in dismissing the *LTL Management* bankruptcy, anticipated this very issue. After finding that the bankruptcy was not filed in good faith because the funding agreement ensured that the debtor was not in fact in financial distress, the Third Circuit added an important footnote:

> Some might read our logic to suggest LTL need only part with its funding backstop to render itself fit for a renewed filing. While this question is also premature, we note interested parties may seek to "avoid any transfer" made within two years of any bankruptcy filing by a debtor who "receive[s] less than a reasonably equivalent value in exchange for such transfer" and "became insolvent as a result of [it]." 11 U.S.C. § 548(a). So if the question becomes ripe, the next one might be: Did LTL receive reasonably equivalent value in exchange for forgoing its rights under the Funding Agreement?

In re LTL Mgmt., LLC, 64 F.4th 84, 109 n.18 (3d Cir. 2023). In short, placing all of a corporation's liabilities into a defunct entity with no real assets and having that entity declare bankruptcy is not a lawful solution to debt.

Nor should it be. If this type of abuse of the bankruptcy system is permitted, there is nothing stopping any financially healthy company from manipulating the divisive-merger mechanism to gain access to, and use, the bankruptcy system's extraordinary tools to frustrate civil justice. Indeed, this is one of the first cases in which the Texas Two Step is being used outside of the mass tort asbestos context. And it's being used to evade not just tort claims, but also contract claims. *See* Doc. 118, Exh. 1 (listing cases stayed by the bankruptcy, including breach-of-contract cases brought by hospitals). It risks opening the floodgates for debtors to abuse the bankruptcy process to artificially limit the money available to creditors and to evade the civil justice system.

Given the concerning nature of this bankruptcy proceeding and the un-precedented use of the Texas Two Step, it is especially important that incarcerated *pro se* creditors be adequately notified of the proceedings, fully informed of litigation developments, and given ample opportunity to meaningfully participate in these proceedings. It is essential that incarcerated people have notice of these proceedings and ample opportunity to object before a final DIP Credit Agreement is entered in this case. As currently written, the DIP Credit Agreement cuts off any

means of challenging Corizon's use of the Texas Two Step to evade liability. It prohibits the Debtor, the Creditor's Committee, any Trustee, "or any other person, party or entity" from using the DIP loan proceeds or the Debtor's cash collateral to "investigate, analyze, commence, prosecute, threaten, litigate, object to, contest, or challenge in any manner . . . (ii) the Divisional Merger, or (iii) YesCare." *See* Doc. 243 at 32-33, ¶ 19; 72-73, §6.36(r).

Even worse, the DIP Agreement effectively strips incarcerated creditors of their ability to pursue fraudulent transfer or alter ego claims in the future. There is significant evidence available on the public record, prior to any meaningful discovery, that the lender of the DIP loan, M2 LoanCo., is an "insider" of both the debtor and YesCare; the same three individuals appear to be behind all three entities. *See* Doc. 332 at 7-13. The DIP Agreement gives that lender, M2 LoanCo, the power to reject any bankruptcy plan, declare that the debtor has defaulted on its loan, and then *purchase* the debtors' causes of action, including any fraudulent transfer claims and alter ego claims against YesCare. *See* Doc. 332 at 24-27. In other words, the same individuals behind the fraudulent transfer scheme would then own the fraudulent transfer claims against themselves. There would be no legal recourse for creditors. Given that entering a final DIP order may permanently strip creditors of their ability to challenge an unlawful abuse of the bankruptcy process or pursue alter ego or fraudulent transfer claims in order to access YesCare's assets, that

determination should not be made before all creditors—known and unknown, incarcerated and in the free world—are provided proper notice and given a meaningful opportunity to participate in the proceedings.

CONCLUSION

While *amici* have concerns about the nature of the underlying bankruptcy proceeding and believe there is a need for further discovery to prevent the misuse of the bankruptcy system, they also believe the first order of business should be to ensure that *pro se* incarcerated creditors—of which there may be hundreds if not thousands—are properly notified, given an equal opportunity to participate in the proceedings, and have their interests adequately represented before this Court. Major decisions that may irreparably harm the rights of creditors—like the entry of a final DIP order—should not take place before all creditors are properly notified and included in the proceedings. Due process of law requires nothing less.

Dated: May 17, 2023

Submitted,

/s/ Jaqueline Aranda Osorno
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EXHIBIT A

HEALTH SERVICES AGREEMENT

THIS HEALTH SERVICES AGREEMENT (the "Agreement"), is entered into this 23rd day of June, 2011 by and between Clackamas County, Oregon, acting by and through its Board of County Commissioners (hereinafter referred to as the "Client"), and Corizon Health, Inc., a Delaware corporation, (hereinafter referred to as "CORIZON"). Services under this Agreement shall commence on July 1, 2011 and shall continue in accordance with Section 7.1.

WITNESSETH:

WHEREAS, the Client is charged by law with the responsibility for obtaining and providing reasonably necessary health care for inmates of Clackamas County Jail (hereinafter called "Facility"); and

WHEREAS, the Client desires to provide for health care to inmates in accordance with applicable law; and

WHEREAS, the Client desires to enter into this Agreement with CORIZON to promote this objective; and

WHEREAS, CORIZON is in the business of providing correctional health care services and desires to provide such services for the Client under the terms and conditions hereof,

NOW, THEREFORE, in consideration of the covenants and promises hereinafter made, the parties hereto agree as follows:

ARTICLE I: HEALTH CARE SERVICES

1.1 General Engagement. The Client hereby contracts with CORIZON to provide for the delivery of comprehensive Medical/Dental/Pharmaceutical Service and cooperative Mental Health Service in conjunction with existing interagency agreement (hereinafter referred to as the "Interagency Agreement") between Clackamas County Jail and Clackamas County Community Health (hereinafter referred to as the "CCCH") to individuals under the physical custody and control of the Client at the Facility, except those identified as work release, and CORIZON enters into this Agreement according to the terms and provisions hereof.

1.2 Scope of General Services.

a) The responsibility of CORIZON to deliver reasonably necessary health care to an inmate commences with the booking and physical placement of said inmate into the Facility. All individuals brought into the Facility will be given a receiving screening by CORIZON personnel immediately upon admission to the Facility.

b) CORIZON shall provide the health care services as set forth herein, including Exhibit A which is attached hereto and incorporated herein by reference, except for inmates on work release and those services identified in Sections 1.5 and 1.7.

c) All forms which are necessary to the provision of health care services as defined herein shall be supplied by CORIZON; said forms shall not require the Client's approval.

CORIZON shall also comply with the County RFP dated June 22, 2010 (inclusive of Attachments A and B), and CORIZON's (fka PHS Correctional Healthcare) Proposal dated August 2, 2010.

1.3 Mental Health. Under the Interagency Agreement, CCCH is responsible for the majority of the mental health needs of the inmates. CORIZON shall be responsible to provide inmates with necessary mental services during the times that CCCH staff is not on duty. In the event of a decrease in services or staffing provided to the Facility by CCCH under the Interagency Agreement, effective at the commencement of this Agreement, parties shall negotiate additional staffing, and the associated costs, required for CORIZON to provide supplemental mental health services.

1.4 Limitations on Responsibility for Costs. For the period defined as Contract Year 1 (July 1, 2011 – June 30, 2012), CORIZON shall be responsible for all health care and related costs as defined in this Agreement subject to an annual aggregate limit of $690,000 for all costs associated with outside medical services and pharmaceuticals. The Client shall be responsible for all costs in excess of this limit annually.

The annual aggregate limit for Contract Years 2 and 3, if renewed, of this Agreement shall be as follows:

Annual Aggregate Limit
Contract Year 2 (July 1, 2012 – June 30, 2013) -- $690,000
Contract Year 3 (July 1, 2013 – June 30, 2014) -- $690,000

The term "*outside medical services*" is defined as: hospitalization, emergency room visits, ambulance transportation, outpatient surgeries, outpatient physician consultations, outside specialist fees, off-site diagnostic procedures, network access fees, abortions and all dialysis treatments, both onsite and offsite.

The term "*hospitalization*" is defined as: all services rendered in a hospital, which provides comprehensive medical care. Such services include inpatient hospitalization, physician fees associated with inpatient or outpatient care, ambulatory surgery, emergency ambulatory care, diagnostic and therapeutic radiology, laboratory and pathological capabilities, and physical medicine capabilities.

The term "*pharmaceuticals*" is defined as: O.T.C. medications, formulary and non-formulary medications, Hepatitis C medications, HIV medications, psychotropics, back-up pharmacy expenses, injections, vaccines (including Hepatitis B, flu, and rabies), hemophilia replacement factors for the treatment of blood disorders and/or any related costs to procuring and/or providing such, courier service, and dispensing fees.

If annual cost for these pharmaceuticals and outside medical services is less than the $690,000 annual aggregate limit, CORIZON will credit the Client an amount equal to 100% of the difference between the annual aggregate limit and the actual amount expended. In the event this Agreement should terminate prior to the end of the then current contract period, the aggregate limit will be prorated accordingly based on the fractional portion of the total contract period during which CORIZON actually provided services. In the event that there is no subsequent contract period to which the credit can be applied, CORIZON will refund the Client an amount equal to 100% of the difference between the aggregate limit and the actual amount expended.

CORIZON will be responsible for utilization management, claims adjudication, and payment of all invoices associated with the provision of these services. In order to satisfy monthly working capital requirements, which tend to vary as a result of utilization trends, the parties shall have a quarterly reconciliation of the aggregate limit as follows:

1st Quarter	$3/12^{th}$ of the aggregate cap
2^{nd} Quarter	$6/12^{th}$ of the aggregate cap
3^{rd} Quarter	$9/12^{th}$ of the aggregate cap
4^{th} Quarter	Full aggregate limit

CORIZON shall provide the Client with a quarterly contract to date report of "paid and posted" claims to compare to the annual cap limits. Such quarterly reconciliations shall be provided to the Client within thirty (30) days after the end of each quarter. Quarterly reconciliations adjustments shall be in the form of a credit memo to the Client or an additional invoice payable to CORIZON within thirty (30) days of receipt.

In addition to the quarterly reconciliation, high cost cases shall be reported as they occur in order for the Client to be made aware of unfavorable cost trends.

CORIZON will provide a final reconciliation within 150 days from the end of the annual term. The yearly reconciliation shall take into account the impact of all prior quarterly reconciliations. The Client shall then apply any required adjustment to either the subsequent month's invoice or, in the case where there is no subsequent month invoice, a final invoice, in the form of a credit memo to the Client or additional reimbursement to CORIZON. In the event there is no subsequent contract period to which the credit memo can be applied, a refund will be issued to the Client or additional compensation will be paid to CORIZON in accordance with the final reconciliation. The parties acknowledge that CORIZON cannot control the timeliness of the submission of claims from non-contracted third-party providers. As a result, there may be instances in which claims are received by CORIZON after the final reconciliation. There may also be instances, in which CORIZON has denied a claim, but the provider has appealed the denial, and the claim is still in the appeal process. In these instances, the Client and CORIZON hereby agree to

pay such claims to the extent the Client or CORIZON is responsible under the provisions of this Agreement.

1.5 Exceptions to Treatment.

a) CORIZON shall not be financially responsible for significant changes in treatment standards, which are either not FDA approved or are not part of CORIZON's written protocols which are in compliance with the National Commission on Correctional Health Care for Jails (NCCHC) standards at the time this Agreement is entered into.

b) CORIZON will not be financially responsible for costs of or associated with experimental procedures.

c) CORIZON will not be financially responsible for any costs incurred after an inmate is released from the Client's physical custody.

d) CORIZON will not be financially responsible for any costs associated with smoking cessation treatment or classes.

e) CORIZON shall not be responsible for medical costs associated with the medical care of any fetus or infant born to an inmate. CORIZON shall provide health care services to pregnant inmates, but health care services provided to an infant following birth will not be the responsibility of CORIZON.

f) CORIZON shall not be responsible for any medical testing or obtaining samples, which are forensic in nature.

g) CORIZON shall not be responsible for any inpatient psychiatric admissions.

1.6 Inmates outside the Facilities. Health care services are intended only for those inmates in the actual physical custody of the Facility. This includes inmates under guard in outside hospitals and whose care is being managed by CORIZON. Such inmates will be included in the resident daily population count. No other inmates, including, but not limited to, those in outside hospitals who are not under guard, shall be the responsibility of CORIZON, nor shall such inmates be included in the resident daily population count.

Inmates on any sort of temporary release, including, but not limited to, inmates temporarily released for the purpose of attending funerals or other family emergencies, inmates on escape status, inmates on pass, parole or supervised custody who do not sleep in the Facility at night, will not be included in the daily population count, and will not be the responsibility of CORIZON with respect to the payment or furnishing of health care services. The cost of medical services provided to inmates while on temporary release will not be the financial responsibility of CORIZON. Any inmate returning to the Facility from temporary release will be given a receiving screening by

CORIZON prior to CORIZON reassuming financial responsibility for the cost of medical services provided to said inmate.

Inmates in the custody of other police or other penal jurisdictions for any reason are likewise excluded from the population count and are not the responsibility of CORIZON for the furnishing or payment of health care services.

1.7 Elective Medical Care. CORIZON will not be responsible for the cost of providing elective medical care to inmates. For purposes of the Agreement, "elective medical care" means medical care which, if not provided, would not, in the opinion of CORIZON's Medical Director, cause the inmate's health to deteriorate or cause definite harm to the inmate's well being. Such decisions concerning medical care shall be consistent with general NCCHC standards. Any referral of inmates for elective medical care must be reviewed and approved by the Client prior to provision of such services. CORIZON may assist in arranging Client approved elective care, but CORIZON shall have no financial responsibility for such care.

1.8 Transportation Services. To the extent any inmate requires off-site nonemergency (i.e., non life-threatening) health care treatment including, but not limited to, hospitalization care and specialty services, the Client will, upon request by CORIZON, its agents, employees or contractors, provide transportation as reasonably available, provided that, when reasonably possible, such transportation is scheduled in advance. When medically necessary, CORIZON shall arrange all emergency (i.e., life threatening) ambulance transportation of inmates.

ARTICLE II: PERSONNEL

2.1 Staffing. CORIZON shall provide medical, technical and support personnel as necessary for the rendering of health care services to inmates at the Facility as described in and required by this Agreement. The chart attached as Exhibit B includes the agreed-upon staffing pattern necessary to provide the health care services required by the Facility for inmate population of up to 500 inmates. CORIZON shall maintain, at a minimum, the staff levels as set forth in Exhibit B.

This staffing pattern is based on the assumption that there will be up to an average daily population of 500 inmates on a monthly basis. If the inmate population increases to a level greater than a 500 inmate average daily population on a monthly basis, CORIZON will charge a variable cost per diem as set forth in section 8, below, to cover the incremental variable costs of providing services to an additional population (this does not reflect any additional staffing costs). If the population goes above a 500 Inmate average daily population for a period of 90 days or more, either party shall have the right to renegotiate for additional staffing and the subsequent compensation for the additional staffing.

2.2 Licensure, Certification and Registration of Personnel. All personnel provided or made available by CORIZON to render services hereunder shall be licensed, certified or registered, as appropriate, in their respective areas of expertise as required by applicable Oregon law.

2.3 Client's Satisfaction with Health Care Personnel. To ensure Client is able to meet its obligation to operate a secure facility, Client has the right to exclude any CORIZON health care personnel provided by CORIZON hereunder, or by any independent contractor, subcontractors or assignee under the direction of CORIZON ("employee"). If CORIZON disagrees with such exclusion and provides the client with independent documentation regarding the medical appropriateness of such employee's behavior, the Client will be responsible for reimbursement of all CORIZON's costs and expenses associated with such exclusion decision. Prior to exclusion, the Client shall provide CORIZON written notice of the grounds for such dissatisfaction and the reasons therefore. CORIZON shall exercise its best efforts to resolve the problem. If the problem is not resolved satisfactorily to the Client, CORIZON shall exclude or shall cause any independent contractor, subcontractor, or assignee to exclude the individual about whom the Client has expressed dissatisfaction. CORIZON will be allowed reasonable time, prior to exclusion, to find an acceptable replacement, without penalty or any prejudice to the interests of CORIZON.

2.4 Use of Inmates in the Provision of Health Care Services. Inmates shall not be employed or otherwise engaged by either CORIZON or the Client in the direct rendering of any health care services. Upon prior written approval of the Client, inmates may be used in positions not involving the rendering of health care services directly to inmates.

2.5 Subcontracting and Delegation. In order to discharge its obligations hereunder, CORIZON will engage certain health care professionals as independent contractors rather than as employees. The Client may request to approve such professionals, but approval will not be unreasonably withheld. Subject to the approval described above, the Client consents to such subcontracting or delegation. As the relationship between CORIZON and these health care professionals will be that of independent contractor, CORIZON will not be considered or deemed to be engaged in the practice of medicine or other professions practiced by these professionals. CORIZON will not exercise control over the manner or means by which these independent contractors perform their professional medical duties. However, CORIZON shall exercise administrative supervision over such professionals necessary to ensure the strict fulfillment of the obligations contained in this Agreement. For each agent and subcontractor, including all medical professionals, physicians, dentists and nurses performing duties as agents or independent contractors of CORIZON under this Agreement, CORIZON shall provide the Client proof, if requested, that there is in effect a professional liability or medical malpractice insurance policy, as the case may be, in an amount of at least one million dollars ($1,000,000) coverage per occurrence and three million dollars ($3,000,000) aggregate.

2.6 Discrimination. During the performance of this Agreement, CORIZON, the Client, its employees, agents, subcontractors, and assignees agree as follows:

a) None will discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, genetic information or national origin, except where religion, sex, sexual orientation, genetic information or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. Each will agree to post in conspicuous places, available to employees and applicants

for employment, notices setting forth the provisions of this nondiscrimination clause.

b) In all solicitations or advertisements for employees, each will state that it is an equal opportunity employer.

c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

ARTICLE III: ACCREDITATION

3.1 Obligation of CORIZON. CORIZON's services shall be designed to meet or exceed the standards promulgated and developed by the NCCHC. More specifically, the services provided must meet the standards to the extent required to achieve NCCHC accreditation of the Facility's healthcare program within two (2) years of this Agreement's date of commencement set forth above, which is a primary goal of these specifications, barring any obstruction from the physical design of the facility or for other reasons that are beyond CORIZON's control. CORIZON's services must meet the NCCHC standards to the extent needed to maintain accreditation, once it is achieved, barring any obstruction from physical design of the facility or for other reasons that are beyond CORIZON's control. The Client shall be responsible for all costs associated with attaining and maintaining NCCHC accreditation, including but not limited to fees.

ARTICLE IV: REPORTS AND RECORDS

4.1 Medical Records. CORIZON shall cause and require to be maintained complete and accurate medical records for each inmate housed in the facility who has received health care services during the term of this Agreement. Each medical record will be maintained in accordance with applicable laws, NCCHC standards and the Client's policies and procedures. The medical records shall be kept separate from the inmate's confinement record. A complete legible copy of the applicable medical record shall be available at all times. A medical transfer sheet shall accompany each inmate who is transferred from the Facility to another location for off-site services or transferred to another institution. Medical records shall be kept confidential. Subject to applicable law regarding confidentiality of such records, CORIZON shall comply with the Client's policy with regard to access by inmates and Facility staff to medical records. No information contained in the medical records shall be released by CORIZON except as provided by the Client's policy, by a court order, or otherwise in accordance with the applicable law. CORIZON shall, at its own cost, provide all medical records, forms, jackets, and other materials necessary to maintain the medical records. At the termination of this Agreement, all medical records shall be delivered to and remain with the Client. However, the Client shall provide CORIZON with reasonable ongoing access to all medical records even after the termination of this Agreement for the purposes of defending litigation.

4.2 Regular Reports by CORIZON to the Client. CORIZON shall provide to the Client, on a date and in a form mutually acceptable to CORIZON and the Client, monthly and annual reports relating to services rendered under this Agreement. CORIZON shall submit monthly and

other periodic reports to the Jail Commander, including but not limited to a monthly summary of specialty care referrals, concerning and reflecting the overall health of the inmates committed to the custody of the Client. Such reports shall be submitted regularly, periodic, or on a requested basis to be determined by mutual written agreement of CORIZON and the Client. CORIZON shall fully cooperate with the Client to respond to reporting requests to support any provisions or section of this Agreement, without any additional charge, fee, or assessment to the Client.

4.3 Third Party Reimbursement. CORIZON shall make reasonable efforts to use information the Client provides and makes readily available concerning third party payor sources, including commercial healthcare insurance, government healthcare benefits, and/or programs (as permitted by law), and workers' compensation insurance, which may be available to an inmate for services rendered or arranged for by CORIZON hereunder. To the extent that the Client is able to obtain any pertinent data during the booking-in process; it shall cooperate fully with CORIZON in its efforts to secure this information. CORIZON shall provide the third party source information it has collected to all off-site providers at the time the inmate is sent for off-site healthcare services.

The Client understands that Medicaid/Medicare are not available third-party payment sources to individuals once they have been incarcerated, and CORIZON will not seek, direct or assist in Medicaid/Medicare reimbursement. CORIZON will use its reasonable, best efforts to inform each provider utilized by CORIZON not to bill Medicaid or Medicare. Should CORIZON or Client become aware that a provider used for inmate care is billing Medicaid/Medicare, CORIZON or the Client will promptly notify that provider not to bill Medicaid/Medicare and direct that provider to bill CORIZON, the client or other legally allowable third-party payor.

All third party remuneration that is recovered or credited because of the efforts to collect payment by CORIZON from any third party source or entity, including without limitation, workers' compensation insurance and commercial medical insurance, will be returned as appropriate to the Client, as directed by the Client. The Client will receive a monthly report outlining third party reimbursement efforts made by CORIZON.

4.4 Inmate Co-Pay Program. CORIZON agrees to participate and track the inmate co-pay program that is currently in place at the Facility. The collected inmate fees shall be used by the Client and not CORIZON. CORIZON shall not collect or handle any inmate funds.

4.5 Inmate Information. Subject to applicable Oregon law, in order to assist CORIZON in providing the best possible health care services to inmates, the Client will provide CORIZON with information pertaining to inmates that CORIZON and the Client mutually identify as reasonable and necessary for CORIZON to adequately perform its obligations hereunder.

4.6 CORIZON Records Available to the Client with Limitations on Disclosure. CORIZON shall make available to the Client, at the Client's request, all records, documents and other papers relating to the direct delivery of health care services to inmates hereunder. The Client understands that many of the systems, methods, procedures, written materials and other controls employed by CORIZON in the performance of its obligations hereunder are proprietary in nature and will remain the property of CORIZON. Information concerning such may not, at any time, be used, distributed, copied or otherwise utilized by the Client, except in connection with the delivery

of health care services hereunder, or as permitted or required by law, unless such disclosure is approved in advance writing by CORIZON.

4.7 Client's Records Available to CORIZON with Limitations on Disclosure. During the term of this Agreement and for a reasonable time thereafter, the Client will provide CORIZON, at CORIZON's request, the Client's records relating to the provision of health care services to inmates as may be reasonably requested by CORIZON or as are pertinent to the investigation or defense of any claim related to CORIZON's conduct. Consistent with applicable law, the Client will make available to CORIZON such records as are maintained by the Client, hospitals and other outside health care providers involved in the care or treatment of inmates (to the extent the Client has any control over those records) as CORIZON may reasonably request. Any such information provided by the Client to CORIZON that the Client considers confidential shall be kept confidential by CORIZON and shall not, except as may be required by law, be distributed to any third party without the prior written approval of the Client.

4.8 HIPAA Compliance. CORIZON shall comply with all applicable Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements relating to CORIZON's responsibilities under this Agreement.

ARTICLE V: SECURITY

5.1 General. CORIZON and the Client understand that adequate security services are necessary for the safety of the agents, employees and subcontractors of CORIZON as well as for the security of inmates and Client's staff, consistent with the correctional setting. The Client will provide sufficient security to enable CORIZON to safely and adequately provide the health care services described in this Agreement. Nothing herein shall be construed to make the Client, his deputies or employees a guarantor of the safety of CORIZON employees, agents or subcontractors, including their employees. The County reserves the right to conduct security clearances on all CORIZON staff recruited to work in the jail. Any CORIZON staff who does not satisfy the security clearance, at County's sole discretion, shall not be allowed access to the jail. The County shall provide written notice to CORIZON of the grounds for such denial of access. CORIZON and its staff shall comply with all County security standards and practices in effect at the Facility, including but not limited to participation in emergency preparedness training.

5.2 Client's satisfaction with Healthcare Personnel. In the event the Client determines in good faith that healthcare personnel is detrimental to the security of the Facility, the Client may remove said employee immediately and thereafter provide written notice to CORIZON. If the Client becomes dissatisfied with any healthcare personnel provided by CORIZON, in recognition of the sensitive nature of correctional services, CORIZON, following receipt of written notice from the Client stating the grounds for such dissatisfaction and in consideration of the reasons therefore, shall exercise its best efforts to resolve the problem. If the problem is not resolved in a manner that is satisfactory to the Client within 30 days of receipt of notice, the Client may revoke the employee's right to enter the Facility. The Client shall have the right of disapproval of any person hired or contracted by CORIZON. Should removal of an individual become necessary, CORIZON shall be allowed thirty (30) days from the date of removal to find an acceptable replacement without penalty or prejudice to CORIZON.

5.3 Loss of Equipment and Supplies. The Client shall not be liable for loss of or damage to equipment and supplies of CORIZON, its agents, employees or subcontractors unless such loss or damage was caused by the negligence of the Client or his employees.

5.4 Security during Transportation Off-Site. The Client will provide security as necessary and appropriate in connection with the transportation of any inmate between the Facility and any other location for off-site services as contemplated herein.

ARTICLE VI: OFFICE SPACE, EQUIPMENT, INVENTORY AND SUPPLIES

6.1 General. The Client agrees to provide CORIZON with office space, facilities, equipment, utilities (including all local telephone costs, but excluding long distance telephone costs which CORIZON shall reimburse monthly to the Client). The Client will provide necessary maintenance and housekeeping of the office space and facilities. CORIZON agrees it has inspected the Facility and medical office space and facilities and that such space and facilities are sufficient for its agents, employees and subcontractors to perform all of the obligations required under this Agreement. Client shall be responsible for providing substitute space should the designated facilities become unsafe for any reason.

6.2 Delivery of Possession. The Facility will continue to provide to CORIZON, beginning on the date of commencement of this Agreement, possession and control of all Client medical and office equipment, and supplies in place at the Facility's health care unit. At the termination of this or any subsequent Agreement, CORIZON will return to the Client possession and control of all supplies, medical and office equipment, in working order, reasonable wear and tear excepted, which were in place at the Facility's health care unit prior to the commencement of services under this Agreement.

6.3 Maintenance and Replenishment of Equipment.

a) The Client shall maintain, including but not limited to replacement, all furnishings and equipment in place at the Facility's health care unit prior to commencement of services under this Agreement. A true and accurate copy of the Client's Equipment Inventory List and CORIZON's review and acceptance of this Inventory List (documented at the commencement of the Agreement) is attached hereto as Exhibit C and incorporated by reference.

b) CORIZON shall be responsible for the purchase of all additional furnishings and equipment with a purchase cost of less than $500. Upon contract termination, the Client reserves the right to purchase any equipment purchased by CORIZON for on-site uses. The purchase price for the Client shall be the actual cost of the equipment purchased, less depreciation computed using double declining balance over a seven (7) year life.

c) In the event additional furnishings or equipment with a purchase cost of $500 or more are required, CORIZON shall forward a written request to Client for consideration. If the purchase is approved by the Client, the Client shall be

responsible for the purchase of all additional furnishings and equipment with a purchase cost of $500 or more.

6.4 General Maintenance Services. The Client will provide for each inmate receiving health care services the same services and facilities provided by the Client for all inmates at the Facility including, but not limited to, daily housekeeping services, dietary services, building maintenance services, personal hygiene supplies and services, and linen supplies.

ARTICLE VII: TERM AND TERMINATION OF AGREEMENT

7.1 Term. This Agreement shall commence at 12:01am on July 1, 2011. The initial term of this Agreement shall be through 11:59 pm on June 30, 2012 and may be extended for two (2) additional one (1) year terms, if mutually agreed to in writing and signed by both parties. Any extension must be agreed to no later than ninety (90) days prior to the termination of the then existing term.

7.2 Termination. This Agreement may be terminated as otherwise provided in this Agreement or as follows:

a) Termination by Agreement. In the event that each of the parties mutually agrees in writing, this Agreement may be terminated on the terms and date stipulated therein.

b) Termination by Cancellation. This Agreement may be cancelled without cause or penalty by the Client or CORIZON by giving no less than ninety (90) days written notice in accordance with Section 10.3 of this Agreement.

c) Annual Appropriations and Funding. Notwithstanding any provision herein to the contrary, if funds are not appropriated for this Agreement, or funding is reduced or not obtained at levels sufficient for purchase of the indicated quantity of services, then the Client shall be entitled to immediately terminate this Agreement, without penalty or expense.

d) Termination for Default. In the event either party shall give notice to the other that such other party has materially defaulted in the performance of any of its material obligations hereunder and such default shall not have been cured within ninety (90) days following the giving of such notice in writing, the party giving the notice shall have the right immediately to terminate this Agreement.

7.3 Responsibility for Inmate Health Care. Upon termination of this Agreement, all responsibility for providing health care services to all inmates, including inmates receiving health care services at sites outside the Facility, will be transferred from CORIZON to the Client.

7.4 Liability. In the event this Agreement is terminated in accordance with this Section, the Client shall only be required to compensate CORIZON for services rendered prior to the effective termination date.

ARTICLE VIII: COMPENSATION

8.1 Base Compensation. For the period defined as Contract Year 1 (start date through end date), the Client will pay to CORIZON the annual base price of $2,499,281. This base price shall be paid in equal monthly installments of $208,273 each. CORIZON will invoice the Client thirty (30) days prior to the month in which services are rendered. The Client agrees to pay CORIZON within thirty (30) days of the invoice date. In the event this Agreement should commence or terminate on a date other than the first or last day of any calendar month, compensation to CORIZON will be prorated accordingly for the shortened month.

8.2 Increases in Inmate Population. The parties agree that an annual base price is calculated based upon an average daily inmate population of up to 500, calculated over a calendar month. If the average daily inmate population exceeds 500 inmates, then the compensation payable to CORIZON by the Client shall be increased by a per diem rate of $0.92 for each inmate over 500. The daily inmate resident population shall be determined and recorded by the Client each night at approximately 10:30 PM. The Client shall regularly provide this information to CORIZON.

This per diem is intended to cover additional costs in those instances where minor, short-term increases in the inmate population result in the higher utilization of routine supplies and services. However, the per diem is not intended to provide for any additional fixed costs, such as staffing positions, which might prove necessary if the inmate population changes significantly and if the population change is sustained.

8.3 Compensation. The compensation (i.e., annual base price and per diem rate as defined in Sections 8.1 and 8.2, respectively) for Contract Years 2 and 3, if renewed, of this Agreement shall be as follows:

	Annual Base Price	Per Diem Rate
Year 2 (July 1, 2012 – June 30, 2013) --	$2,577,971	$0.94
Year 3 (July 1. 2013 – June 30, 2014) --	$2,642,381	$0.95

8.4 Inmates from Other Jurisdictions. Medical care rendered within the Facility to inmates from other jurisdictions housed in the Facility pursuant to contracts between the Client and such other jurisdictions will be the responsibility of CORIZON, as limited by Section 1.7. CORIZON will arrange for medical care that is not rendered in the Facility, but CORIZON shall have no financial responsibility for such services rendered outside the Facility.

8.5 Changes in the Law, Standard of Care or Scope of Services. The prices in Sections 8.1 and 8.2 reflect the scope of services as outlined herein and the current community standard of care with regard to health care services. Should there be any change in or modification of inmate distribution, standards of care, scope of services, cost of goods or services, available workforce

pool, or unionizing of workforce that results in material increase in costs, or if any statute, rule or regulation is passed or any order issued or any statute or guideline adopted materially increasing the cost to CORIZON of providing health care services hereunder, the increased costs related to such change or modification are not covered in this Agreement and will be negotiated with the Client, provided, however, that if the parties are unable to agree on appropriate compensation, either party may terminate this Agreement with 90 days advance written notice.

8.6 Payment. If the Client fails to make any payment to CORIZON hereunder within thirty (30) days following CORIZON's notice to the Client of non-payment, CORIZON, among any other rights and remedies pursuant to this Agreement or otherwise available at law or in equity, shall have the right to terminate this Agreement immediately. Failure to terminate this Agreement shall not waive any breach of this Agreement. A waiver of any breach of this Agreement shall not constitute a waiver of any future breaches of this Agreement, whether of a similar or dissimilar nature.

8.7 Late Payments. The Client shall pay CORIZON interest on all undisputed payments hereunder that are not paid when due. Interest shall accrue from the date the original payment was due at a rate of one percent (1%) per month until the payment is made in full. The Client shall bear the costs of any legal or collection fees and expenses incurred by CORIZON in attempting to enforce Client's payment obligations hereunder.

ARTICLE IX: LIABILITY AND RISK MANAGEMENT

9.1 Insurance. CORIZON shall purchase and maintain, at CORIZON's expense, the types of insurance listed below, covering CORIZON, its employees, and agents:

a) **Comprehensive General Liability Insurance** covering personal injury and property damage in the amount of not less than $1,000,000 combined single limit per occurrence/$2,000,000 general annual aggregate. This insurance shall include contractual liability coverage for the indemnity provided under this contract. CORIZON agrees to furnish the Client with evidence of adequate coverage, and the Client, at its option, may require a complete copy of the above policy.

b) **Workers' Compensation Insurance** in compliance with ORS 656, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers.

c) **Employers' Liability Insurance** with limits of $100,000 each accident/$100,000 disease each employee and $500,000 each policy limit.

d) **"Symbol 1" Commercial Automobile Liability Insurance** with combined single limit coverage of not less than $1,000,000 each claim, incident, or occurrence. CORIZON agrees to furnish the Client with evidence of

adequate coverage, and the Client, at its option, may require a complete copy of the above policy.

e) **Professional Liability Insurance** in the amount of not less than $1,000,000 combined single limit per occurrence/ $3,000,000 general annual aggregate. This is to cover damages caused by error, omission, or negligent acts related to the professional services to be provided under this contract. CORIZON agrees to furnish the Client with evidence of adequate coverage, and the Client, at its option, may require a complete copy of the above policy.

In the event that coverage changes, CORIZON shall notify the Client in writing. CORIZON shall also notify the Client, in writing, of any reduction in policy amounts or cancellation of insurance coverage. The insurance, other than the Professional Liability and Workers Compensation insurance, shall include "Clackamas County, it agents, officers and employees" as an additional insured.

Rather than procuring a "tail insurance" policy, CORIZON will renew its professional liability insurance on a yearly basis throughout the term of this Agreement and for a period to include all applicable statute of limitations. CORIZON's professional liability insurance includes "prior acts" coverage. As a result, all professional liability claims arising from services rendered by CORIZON under this Agreement will continue to be covered, even if claims are made after the expiration or termination of this Agreement.

9.2 Lawsuits Against the Client. In the event that any lawsuit (whether frivolous or otherwise) is filed against either the Client, his employees, its elected officials, employees and agents based on or containing allegations concerning medical care of inmates or on the performance of CORIZON's employees, agents, subcontractors or assignees, the parties agree that CORIZON, its employees, agents, subcontractors, assignees or independent contractors, as the case may be, may be joined as parties defendant in any such lawsuit and shall be responsible for their own defense and any judgments rendered against them. Nothing herein shall prohibit any of the parties to this Agreement from joining the remaining parties hereto as defendants in lawsuits filed by third parties. Nothing in this section shall be construed to conflict with, or limit, the obligations provided for in Section 9.3.

9.3 Hold Harmless. To the extent CORIZON is negligent, CORIZON must indemnify, save harmless and defend the Client, its officers, commissioners, and employees from any and all claims and actions, and all expenses incidental to investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the negligent acts, errors, omissions, or fault of CORIZON or CORIZON's employees.

The Client shall immediately notify CORIZON of any incident, claim, or action concerning the medical care of inmates and/or on the performance of CORIZON's employees, agents, subcontractors, or assigns relevant to the obligations under the instant Agreement and shall fully cooperate in the defense of such claim, in any manner authorized by law, but CORIZON shall retain sole control of the defense while the action is pending.

CORIZON's obligation to indemnify the Client as set forth herein shall not apply to any claims, actions, lawsuits, damages, judgments, and/or liabilities of any kind whatsoever to the extent that said claims, actions, lawsuits, damages, judgments, and/or liabilities of any kind result from the sole or partial (liability shall be apportioned) negligence by the Client and/or any of its agents, officers, commissioners, servants, assigns, and/or employees.

ARTICLE X: MISCELLANEOUS

10.1 Independent Contractor Status.

a) The parties acknowledge that CORIZON is an Independent Contractor. Nothing in this Agreement is intended nor shall be construed to create an agency relationship, an employer/employee relationship, or a joint venture relationship among the parties.

b) CORIZON warrants and represents that CORIZON is not an employee of Clackamas County, is not currently employed by the Federal Government, meets the specific Independent Contractor standards of ORS 670.600, and is not an "officer," "employer," or "agent" of the Client, as those terms are used in ORS 30.260 et seq.

c) CORIZON shall be solely responsible for all Federal or State taxes applicable to any compensation or payments paid to CORIZON under this contract.

d) The parties acknowledge that CORIZON is not entitled to any benefits generally granted to Clackamas County employees. Without limitation, by way of illustration, the benefits which are not intended to be extended to CORIZON by this Agreement are: vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if CORIZON is presently a member of the Public Employees Retirement System).

10.2 Assignment and Subcontracting. CORIZON shall not assign this Agreement to any other corporation without the express written consent of the Client which consent shall not be unreasonably withheld. Any such assignment or subcontract shall include the obligations contained in this Agreement. Any assignment or subcontract shall not relieve CORIZON of its independent obligation to provide the services and be bound by the requirements of this Agreement.

10.3 Notice. Unless otherwise provided herein, all notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if sent by certified mail, return receipt requested, postage prepaid, and

addressed to the appropriate party at the following address or to any other person at any other address as may be designated in writing by the parties:

a) Client
Undersheriff Dave Kirby
Clackamas County Jail
2206 Kaen Rd
Oregon City, OR 97045

With a copy to:
County Counsel
2051 Kaen Rd.
Oregon City, OR 97045

b) CORIZON
Rodney Holliman
President, Community Corrections
Corizon Health, Inc.
105 Westpark Drive, Suite 200
Brentwood, Tennessee 37027

With a copy to:
General Counsel
Corizon Health, Inc.
105 West Park Drive, Suite 200
Brentwood, Tennessee 37027

Notices shall be effective upon receipt.

10.4 Governing Law/Venue/Attorney Fees. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Oregon. Any claims, action, suit, or proceeding (collectively "Claim") between CORIZON and the Client that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided however, if a Claim is brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CORIZON, by execution of this Agreement, hereby consents to the personam jurisdiction of said courts. The prevailing party in a Claim shall be entitled to reasonable attorney fees and costs as awarded by the court, including any appeal.

10.5 Public Contracting Statutes.

a) ORS 279B.220 through 279B.235 and ORS 279C.500 through 279C.780, as applicable, are incorporated herein by reference.

b) CORIZON agrees to:

i. Make payment promptly, as due, to all persons supplying to CORIZON labor or material for the prosecution of work provided for in this contract;
ii. Pay all contributions or amounts due to the Industrial Accident Fund incurred in the performance of the contract;
iii. Not permit any lien or claim to be filed or prosecuted against Client on account of any labor or material furnished pursuant to this Agreement; and
iv. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

c) If CORIZON fails to, neglects, or refuses to make prompt payment of any claim for labor or services furnished to CORIZON or subcontractor by any person in connection with this Agreement as such claim becomes due, the proper officer representing Client may pay such claim to the person furnishing the labor or services and charge the amount of the payment against the funds due or to become due to CORIZON by reason of this Agreement.

d) This Agreement is expressly subject to the debt limitations of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated. Any provisions herein conflicting with Article XI, Section 10 are deemed inoperative to that extent.

10.6 Compliance with Applicable Law. CORIZON and its subcontractors shall comply with all federal, state, and local laws and ordinances applicable to the work performed under this contract including, but not limited to the following, as applicable: Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (Pub L No 101-336), ORS 659.425 and all regulations and administrative rules established pursuant to those laws; and all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

10.7 Entire Agreement. This Agreement, including all exhibits, CORIZON's/PHS Correctional Healthcare's Proposal dated August 10, 2010, and the County RFP dated July 22, 2010, which are incorporated herein by reference, shall constitute the complete understanding and entire agreement between the parties with respect to the terms and conditions set forth herein, and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions and agreements that have been made in connection with the subject matter hereof and supersede all previous written or oral agreements and representations. All prior negotiations, agreements and understandings with respect to the subject matter of this Agreement are superseded hereby. In the event a dispute or controversy arises with regard to this Agreement, the following order of precedence shall be in effect for purposes of resolution:

a) Health Services Agreement
b) CORIZON's/PHS Correctional Healthcare's Proposal dated August 10, 2010; and

c) The Clackamas County RFP dated July 22, 2010

10.8 Amendment. This Agreement may be amended or revised only in writing and signed by all parties.

10.9 Waiver of Breach. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision hereof.

10.10 Other Contracts and Third-Party Beneficiaries. The parties agree that they have not entered into this Agreement for the benefit of any third person or person, and it is their express intention that this Agreement is intended to be for their respective benefit only and not for the benefit of others who might otherwise be deemed to constitute third-party beneficiaries hereof.

10.11 Severability. In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect and enforceable in accordance with its terms.

10.12 Force Majeure. Neither party shall be held responsible for any delay or failure in performance (other than payment obligations) to the extent that such delay or failure is caused by fire, flood, hurricane, explosion, war, strike, labor action, terrorism, embargo, riot, civil or military authority, act of God, acts or omissions of carriers or other similar causes beyond its control.

10.13 Trial Duty. In the event CORIZON's personnel are required to devote time with regard to litigation or threatened litigation by or on behalf of Client, this shall be part of their service time pursuant to this Agreement. Client shall be responsible for reasonable costs of substitute personnel to fill positions, which would be vacant due to such court or trial appearance requirements.

10.14 Disposal of Waste. The disposal of medically generated contaminated waste shall be the responsibility of CORIZON. Disposal of these wastes shall be in accordance with all federal, state, and local laws.

10.15 Time is of the Essence. Time is of the essence in CORIZON's performance of each and every obligation and duty under this Agreement.

10.16 Oregon Registration. If CORIZON is not domiciled in or registered to do business in the State of Oregon, CORIZON shall promptly provide the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Agreement.

10.17 Catalyst™. CORIZON, with the cooperation of the Client, hereby agrees to implement its proprietary electronic health record application known as Catalyst™ at the Facility within Contract Year 1. Implementation shall be contingent upon the parties entering into separate agreements that CORIZON deems necessary for the implementation of the Catalyst™ system, including but not limited to CORIZON'S Terms of Use Agreement and/or Catalyst Licensing

Agreement, inclusive of any and all required addenda thereto. Client shall be responsible for all costs associated with changes or updates to the Client's current jail management system which are required in order to integrate Catalyst™ into the Client's current jail management system.

IN WITNESS WHEREOF, the parties have executed this Agreement in their official capacities with legal authority to do so.

CLACKAMAS COUNTY, by and through its Board of County Commissioners

Signature: _____

Charlotte Lehan

Chair, Board of County Commissioners

Date: _____

_____
Mary Raethke, Recording Secretary

Approved as to Form:

_____
David W. Anderson
Assistant County Counsel

CORIZON HEALTH, INC.

Signature: Rodney D Holliman

Name: Rodney D. Holliman

Title: PRESIDENT, COMMUNITY CORRECTIONS

Date: 6/10/2011

APPROVED AS TO FORM
by LEGAL DEPT.

Exhibit A

The services CORIZON shall provide include the following:

a) Intake Screenings

A licensed healthcare professional will perform an intake screening on incoming inmates upon admission to the jail. CORIZON will not be responsible for medical treatment provided prior to the completion of the booking process and the inmate is physically committed into custody of the jail. The screening will identify those individuals with medical conditions, mental disorders, inmates in need of segregation or close supervision, and those with suicidal tendencies. Inmates will be booked and committed into the jail 24 hours a day, seven days a week.

Jail security staff and CORIZON's medical staff will ensure that no unconscious person or a person who appears to be seriously injured is admitted to the jail. They must be referred immediately for emergency medical attention and their admission or return to the jail system is predicated upon written medical clearance.

Receiving screening findings should be recorded on a printed form.

Jail staff will be notified if an inmate refuses any aspect of the intake screening.

The screening examination should include, at a minimum, documentation of the following:

(1) Inquiry into current illnesses, health problems, and conditions, including:

Any past history of tuberculosis or other infectious or communicable illness, or symptoms- e.g., chronic cough, hemoptysis (spitting up blood), lethargy, weakness, weight loss, loss of appetite, fever, night sweats - suggestive of such illness;
Mental health problems including suicidal ideation;
Dental problems;
Allergies;
Medications taken and special health (including dietary) requirements;
For women, date of last menstrual period, current gynecological problems, and pregnancy;
Use of alcohol and other drugs, including types, methods (including needle sharing), date or time of last use, and problems that may have occurred after ceasing use (e.g., convulsions); and
Other health problems designated by the responsible physician.

(2) Observation of the following:

Behavior, which includes state of consciousness, mental status (including suicidal ideation), appearance, conduct, tremors, and sweating;
Body deformities and ease of movement;
Persistent cough or lethargy; and
Condition of skin, including scars, tattoos, bruises, lesions, jaundice, rashes, infestations, and needle marks or other indications of drug abuse.

(3) When clinically indicated, there should be an immediate referral to an appropriate health care service.

(4) Notation of the disposition of the patient, such as immediate referral to an appropriate health care service, approval for placement in the general inmate population with later referral to an appropriate health care service, or approval for placement in the general inmate population.

(5) Documentation of the date and time when referral/placement actually takes place.

b) Health Assessments

CORIZON will establish policies and procedures for inmate health assessments, which shall be subject to review and comment by the Jail Commander or designee.

CORIZON will arrange for a licensed physician, midlevel provider or an appropriately trained registered nurse to complete health assessments within fourteen (14) days of the inmate's admission to the jail.

The health assessment should include the following, as appropriate:

(1) A review of the intake screening results and the collection of additional data to complete the medical, dental, and mental health histories;

(2) Laboratory and/or diagnostic tests to detect communicable diseases, including sexually transmitted diseases and tuberculosis, and other tests as determined by the responsible physician upon consultation with and approval by the local public health authority;

(3) Recording of height, weight, pulse, blood pressure, and temperature;

(4) A physical examination including comments about mental status;

(5) Other tests and examinations as appropriate;

(6) A review of the findings of the health assessment and tests, and identification of problems by a physician;

(7) Initiation of therapy and immunizations when appropriate;

(8) Oral (dental) history, including instruction in oral hygiene and oral health education; and

(9) A structured interview in which inquiries are made in the following areas:

History of hospitalization and outpatient treatment;
Current medications;
Suicidal ideation and history of suicidal behavior;
Drug usage;
Alcohol usage;
History of sex offenses;
History of expressively violent behavior;
History of victimization due to criminal violence;
Special education placement and history of cerebral trauma or seizures; and
Emotional response to incarceration

(10) The health assessment process will also include a tuberculin PPD skin test.

(11) The form used for the health appraisal must be approved by the facility physician, and shall be provided by CORIZON.

Inmates referred for treatment as a result of the health appraisal must be seen the following day unless the provider making the referral orders them to physician sick call on another day.

CORIZON will provide physical examinations and medical clearances for all inmate workers.

c) Segregation Rounds

Licensed medical personnel will perform rounds on inmates who are segregated from the general population (whether for disciplinary, administrative, or protective reasons) to determine the inmate's health status and to ensure access to health care services, a minimum of three times a week. A record of the segregation rounds will be maintained, with clinical encounters noted in the inmate's health record.

d) Women's Preventative Health Care

CORIZON will be responsible for the provision of medically necessary health services to the female inmate population to include, at a minimum, the following:

(1) Sexually transmitted disease screening as indicated

(2) Annual Pap smear testing as indicated, and

(3) Mammograms, as determined necessary by medical history or an abnormal breast examination.

e) Medication Management

CORIZON shall provide a total pharmaceutical system for the jail beginning with physicians or practitioner prescribing the medication, filling the prescription, the dispensing of medication, and necessary record keeping. CORIZON will be responsible for the costs of all drugs administered. The system will include prescription and over the counter medications. All prescription medications shall be administered by a state licensed individual. All controlled substances, syringes, needles, and surgical instruments will be stored under security conditions acceptable to the County.
Pharmacological support must be determined by a health care provider.

All released inmates, who have been receiving essential medication, while in custody, shall be provided with a current prescription upon release.

CORIZON has the responsibility to record the administration of medications in a manner and on a form approved by the jail to include documentation of the fact that inmates are receiving and ingesting their prescribed medications and to maintain those records.. Documentation is also required when an inmate's ordered medication was not administered, and the reason for non-administration must be noted.

The pharmaceutical program will also include guidelines for administering medications to those inmates scheduled to be temporarily out of the jail (e.g., for court appearances).

Medications will be maintained under proper conditions and in a secure area. A log indicating the use of stock medications will be maintained. CORIZON shall provide policies and procedures for the removal and disposal of any and all outdated, unneeded, or surplus medications.

CORIZON*'s* pharmaceutical program will address, at a minimum, the following:

Medication ordering process;

Medication administration systems to include Direct Observed Therapy (DOT) and Keep-on-Person (KOP) programs as indicated;

Routine/non-urgent medication shall be administered within 24 hours of physician's order with urgent medication provided as required and ordered by a health care provider;

Documentation of inmate education addressing potential medication side effects;

Documentation of medication administration to inmates utilizing the medication administration record;

Documentation of an inmate's refusal to take the prescribed medication;

Requirements for provider review prior to the renewal of medication orders to include psychotropic medications; the re-evaluation will be documented in the inmate's health record.

f) Laboratory Services

CORIZON will ensure the availability of laboratory studies as determined necessary consistent with NCCHC and ACA standards.. Routine and Stat laboratory specimens will be processed and written reports will be provided in a timely manner. A health care provider will review test results.

All laboratory, EKG and X-ray results shall be reviewed and signed off by a health care provider. A follow up plan of care shall be furnished if indicated.

CORIZON will provide equipment and supplies to perform on-site laboratory testing as required by NCCHC and ACA standards.

g) Radiological Services

CORIZON will ensure access to radiological studies as determined necessary consistent with NCCHC and ACA standards. Routine and Stat radiology services will be processed and written reports will be provided in a timely manner. A board certified or board eligible radiologist will interpret test results.

h) Off-Hours Mental Health Services

CORIZON will coordinate with the jail's current contracted mental health staff, who perform mental health evaluations and create treatment plans or transfers when appropriate.

CORIZON is responsible for providing inmates with necessary mental health services during off hours. The mental health program shall include screening, referral, diagnosis and treatment of inmates with mental health conditions.

When isolated for psychiatric purposes, inmates shall be assessed by a health care provider after being placed in that status.

Confinement of inmates based on risk of physical danger to self or others will be limited to circumstances where such confinement is supported by a mental health evaluation.

All inmates who are segregated from the general population for psychiatric reasons must be seen by qualified health personnel a minimum of three (3) times per week. Coordination and cooperation with Clackamas County Mental Health employees will be required by CORIZON to meet this minimum standard.

In the absence of Clackamas County Mental Health staff, qualified CORIZON staff will be responsible to recommend when an inmate should be sent or returned to general population, with documentation in the medical record regarding these decisions.

All inmates referred for mental health evaluation will receive a comprehensive diagnostic examination by qualified CORIZON staff or Clackamas County Mental Health staff.

CORIZON will be responsible to train their staff on the identification and treatment of inmates who are at risk for suicidal and/or homicidal acts. Detailed policies and procedures will be in place for both the on-site treatment of such inmates and for referrals to the mental health preferred provider when medically necessary for continued treatment.

i) Health Records Management

CORIZON will initiate and maintain individual health care records for every inmate regarding medical, dental or mental health services as a result of the inmate screening process, or for services rendered following assignment to a housing area.

Inmates returning from outside hospital stay or clinic visits are to be seen by a health care provider. A note regarding this review with reference to in-house follow up must be documented in the inmate medical record.

The results of tuberculin tests shall be read and documented.

Medical staff shall perform reviews, medical examinations, medical summaries or certifications as necessary for intra-system or inter-system transfers, food handling and work clearances.

Discharge summaries shall be prepared and sent with inmates being transferred to other facilities.

The inmate health record may include, but not be limited to:

Intake screening form;
Health appraisal form;
Physician order/treatment plans;
Prescribed medications administered or not administered, date, time and by whom;
Complaints of illness or injury;
Findings, diagnoses, treatments and dispositions;
Consent and refusal forms;
Release of information forms;
Inmate medical request forms;
Medical grievance forms;
Laboratory, radiology and diagnostic studies;
Consultation, emergency room and hospital reports and discharge summaries.

Each documentation shall include the date, time, signature and title of each documenter.

Confidentiality of medical records and medical information will be maintained by CORIZON personnel. The medical and psychiatric records will be kept separate from the custody record.

Data necessary for the classification, transport, security and control of inmates will be provided to the appropriate jail personnel. Medical records will be made available to Sheriff's Office and County Counsel personnel when required to defend any cause of action by any inmate against the Sheriff and/or County.

Adherence to applicable informed consent regulations and standards of the local jurisdiction must be maintained.

Inactive medical records will be maintained in accordance with the laws of the State of Oregon, and NCCHC guidelines.

Information concerning any court or legal documents affecting inmates and CORIZON must be provided, in writing to the designated Sheriff's Office representative at the jail prior to the close of the shift during which the documents were served or received.

If an inmate's medical record cannot be located within eight (8) hours of the discovered loss, CORIZON shall verbally notify the Jail Commander or designee and a duplicate record shall be immediately generated.

j) Nutritional Services

CORIZON will be responsible for cooperating with the established food service program to ensure the provision of medically necessary diets.

k) Dental Care

Dental care will be provided by CORIZON under the direction and supervision of a dentist licensed in the State of Oregon.

Dental services will be provided for emergency and medically required dental care for all inmates at the jail within a reasonable period of time.

Services shall include basic dental services necessary to relieve pain, and preserve salvageable teeth. Emergency dental services shall be available on a 24 hour a day basis.

CORIZON will provide inmates with an oral screening within 14 days of admission, dental education and oral hygiene instruction within one month of admission and a dental examination within twelve months of admission.

l) Emergency Medical Care

CORIZON will establish policies and procedures to address emergency situations. The emergency policies will provide for immediate response by the health staff to stabilize the inmate. Emergency services to include first aid and cardiopulmonary resuscitation services will be provided on-site.

CORIZON will establish and maintain contracts with area providers for emergency services. CORIZON will notify the jail shift supervisor of the nature of the incident/illness and the type of transportation requested when an offsite emergency transport is required.

CORIZON will report emergency transfers to the Jail Commander or designee.

m) reserved

n) CORIZON will establish policies and procedures specific to the health care of pregnant inmates, which will include, at a minimum, the following:

(1) Pre-natal care, including regular monitoring by an obstetrician;

(2) Provision of appropriate vitamins and dietary needs; and

(3) Identification and disposition of high-risk pregnancies, including appropriate referrals to off site providers when medically indicated.

CORIZON will not be responsible for fetus care or care after birth to the baby however an after care plan will be developed for the mother prior to delivery.

Regardless of personal or professional beliefs, female prisoners may be legally entitled to abortions. Abortions are "outside medical services." Regardless of whether or not an abortion is deemed medically necessary, CORIZON shall assist in making offsite arrangement for the abortion.

o) Inmate Requests for Health Care Services

CORIZON will establish policies and procedures for handling and responding to inmate requests for health care services. CORIZON policies and procedures shall be subject to review and comment by the Jail Commander.

Inmates will have the opportunity to request health care services daily. Inmates may request services in writing or be referred by correctional staff. CORIZON care personnel will review the requests and determine the appropriate course of action to be taken to include immediate intervention or scheduling for nursing sick call or a provider evaluation.

CORIZON will determine the process to be used for collecting, triaging and responding to inmate requests for health care services. Sick call will be held by CORIZON personnel a minimum of five days per week.

p) Assessment Protocols

CORIZON will establish assessment protocols to facilitate the sick call process. The assessment protocols will be appropriate for the level of skill and preparation of the nursing personnel who will carry them out. The assessment protocols will be in compliance with relevant state practice acts and will be approved by the health authority.

q) Infectious Disease

CORIZON shall establish policy and procedures for the care and handling of inmates diagnosed with infectious disease, chronic illnesses and other special health care needs.

CORIZON will provide an infection control program that focuses on surveillance, prevention, treatment and reporting. In addition to procedures generic to "infectious diseases," disease specific programs will be established to include:

(1) Tuberculosis:

CORIZON will develop a TB surveillance, treatment and monitoring program consistent with community standards.

If an inmate tests positive for a PPD test, the inmate shall be scheduled for and receive a chest x-ray, with appropriate follow-up and care, including isolation, if required.

(2) HIV/AIDS:

Voluntary HIV testing and counseling will be available on a confidential basis to inmates who request testing.

A health care provider will evaluate inmates identified as having HIV disease. HIV inmates will have access to infectious disease specialists and HIV medications as determined medically necessary.

(3) Influenza:

CORIZON will develop an Influenza response program consisting of surveillance, treatment and monitoring consistent with community standards and established Clackamas County policy and procedures.

A health care provider will evaluate inmates identified with contagious upper respiratory infections and cases will be isolated or separated as determined necessary.

CORIZON shall provide a designated staff member solely responsible for the infectious control program (positive PPD, TB, hepatitis, etc.) in accordance with the standards established by the National Commission on Correctional Health Care (NCCHC) and the American Correctional Association (ACA).

r) Chronic Illness and Special Needs Inmates

CORIZON will establish a plan for the identification, treatment and monitoring of inmates with chronic illnesses and special health care needs. Upon identification of an inmate with a special health care need the inmate will be referred to a health care provider. The health care provider will establish a special needs treatment plan to guide the care of inmates with special needs.

Inmates under the influence of alcohol or drugs may be separated from the general population and kept under close observation for a reasonable time period, as indicated.

Inmates with suicidal tendencies may be assigned to quarters that have close observation. Suicide prevention protocols will be developed by CORIZON and will be subject to approval by jail administration and Clackamas County Mental Health.

Chemical restraints may be administered without consent when appropriate and approved by physician to control ongoing violent or destructive behavior to protect both staff and inmates. Observation and documentation by medical staff shall be consistent with best practices and protocols.

s) Emergency Response Plan

CORIZON will establish procedures to address the health aspects of the emergency response plan. The related procedures will be approved by the health authority and the Jail Commander and include:

Responsibilities of health staff;
Procedures for triage;
Pre-determination of the site for care;
Telephone numbers and procedures for calling health staff and the community emergency response system (e.g., hospitals, ambulances);
Procedures for evacuating patients; and
Alternate backups for each of the plan's elements.

The health aspects of the emergency plan will be tested or drilled, as required by NCCHC or ACA standards.

t) Inmate Grievance Procedure

CORIZON will establish policies and procedures that address the handling of inmate complaints related to health services to include a process for appeals.

CORIZON will utilize the jail's current grievance system to track complaints from receipt to resolution. CORIZON shall respond to grievances within 72 hours of receipt not including weekends and holidays.

CORIZON will generate and provide to the Jail Commander a monthly report of complaints received. The reports should include, at a minimum, inmate name and identification number, date the complaint was received, complaint description, date of response, and a brief description of the resolution.

u) Inmate Co-Payment Processing Procedures

CORIZON will participate and track the inmate co-pay program. The inmate fees collected will be for the use of the jail not CORIZON. CORIZON will not collect or handle any inmate funds.

v) Off-Site Referrals

CORIZON will establish policies and procedures for referring inmates to specialty care providers when determined necessary by the health care provider. CORIZON will be responsible for establishing a network of providers to meet the health care needs of the inmate population. CORIZON will coordinate arrangements for off-site care with the appropriate jail staff for the transportation of inmates to off-site providers.

CORIZON will be responsible for determining the medical necessity of off-site medical services and for providing the necessary medical information, as well as billing information, to the provider.

CORIZON shall generate and complete an appropriate Request for Consultation form for inmates who require specialty care services. This completed form will accompany the inmate during transport from the jail to a provider for treatment.

Each off-site referral will result in a legible consultation/treatment report from the provider to be filed in the inmate's medical record. The health care provider will review the consultant report. This report will contain:

Reason for consult;
Appropriate exam/lab findings;
Diagnosis;
Treatment plan(s); and
Follow-up appointment (if necessary).

Recommendations involving any special procedures or non-routine follow-up will be communicated between the community provider and CORIZON.

CORIZON will generate and provide the Jail Commander a monthly summary of specialty care referrals.

w) Additionally, CORIZON shall provide the following services for Sheriff's Office staff:

(1) Annual tuberculin skin testing and referrals as necessary;
(2) Hepatitis vaccinations;
(3) Emergency intervention for on-site injuries to employees or visitors;
(4) OSHA recordkeeping;
(5) Post body fluid exposure follow-up and documentation;.
(6) Health education services for Jail staff;
(7) Flu vaccinations for Jail staff.

Prison Health Services Inc.
Proposed Staffing for
Clackamas County, Oregon
Exhibit B

ADP 500

POSITION	Mon	Tue	Wed	Thu	Fri	Sat	Sun	TBS*	Hrs/ Wk	FTE
DAY SHIFT										
Health Services Adminstrator	8	8	8	8	8				40	1.00
Administrative Assistant/Medical Records Clerk	8	8	8	8	8				40	1.00
Charge Nurse (DON)	8	8	8	8	8				40	1.00
RN	10	10			10	10			40	1.00
RN		10	10	10			10		40	1.00
RN	10		10	10	10				40	1.00
LPN						10	10		20	0.50
Nurse Practitioner	8	8	8	8	8				40	1.00
Medical Director			4		4				8	0.20
TOTAL HOURS/FTE-Day									*308*	*7.70*
EVENING SHIFT										
Medical Records Clerk			8	8	8	8	8		40	1.00
RN		10	10		10	10			40	1.00
RN			10	10	10		10		40	1.00
RN	10	10		10			10		40	1.00
LPN	10					10			20	0.50
TOTAL HOURS/FTE-Evening									*180*	*4.50*
NIGHT SHIFT										
Medical Records Clerk	8	8	8	8	8				40	1.00
RN	10				10	10	10		40	1.00
RN	10	10	10	10					40	1.00
Certified Medical Ass't/ Med Aid		8	8	8	8	8	8		48	1.20
TOTAL HOURS/FTE-Night									*168*	*4.20*
TOTAL HOURS/FTE per week									656	16.40

CC Jail Medical Inventory
as of 2-4-2011

Item Description	Quantity	Misc. Info
2 drawer metal cabinets	4	
monitors	3	
printer	3	
hard drive	3	
keyboards	3	
mouse	3	
dental chair w/light	1	
wall mount dental xray	1	
wood drawer cabinet	1	3 drawer
belmont acuray model 071a	1	wallmount
desk wood/metal	1	3 drawer
desk wood/metal	1	0 drawer
privarcy wall	1	
wood locking cabinet	1	
wood pamphlet multi holder	1	
rolling table	1	
3 tier desk holder	1	
exam light	1	
laundry hamper holder	1	
scale	1	
2 tier metal desk holder	1	
5 tier metal desk holder	1	
1 tier wood tip printer holder	1	
security reflector	1	
phones	3	
polycom phone speaker	1	
chair	1	plastic
chari	3	
heater	1	

2-4-2011 Dental Room Inventory

CC Jail Medical Inventory
as of 2-4-2011

Item Description	Quantity	Misc. Info
Monitors	3	# 09, 17, 10
Keyboards	3	
Mouse	3	
Speakers	6	
Large rolling chart bin	1	
Key Safe/Lock Box	2	
5 tier wallmount mailbox	2	
3 tier wallmount mailbox	5	
1 tier paper holder	21	
Vertical metal holder	2	
6 tier table metal holder	1	Black
Dry Erase board	1	
Phone- Single Line	1	Black
Phone- Multi Line	3	Cream
4 tier book shelf	1	
Metal Bin	1	
Small rolling bin	2	
Electric Stapler	1	
Electric Pencil Sharpener	1	
Richo photo copy/fax	1	network
Typewriter	1	IBM
Hole Punch- 2	3	
Hole Punch -3	1	
Scanner	1	Canon
Printer	2	
Security Monitor	1	
Security Reflector	2	
Security Cameras	2	
Heavy Duty Stapler	1	
Flash Light	3	
Bulletin Board	2	
BP-Auto Intellisense	5	
Stapler	5	
Wallmount Fire Ext.	1	
Stool	1	
Inmate Chair	6	
Chairs	3	
AED-Defib	1	**one up @ control II as well**
BP Cuffs	8	
Emergency Bag-Blue small	1	
Emergency Bag-Blue Large	1	
Suction	1	
Ambu	1	
VCR	1	Toshiba
Wall Clocks	2	
Wall Mounted Digital Scale	1	

2-4-2011 Main Clinic Inventory

CC Jail Medical Inventory
as of 2-4-2011

Item Description	Quantity	Misc. Info
exam table	1	
Mayo table	1	silver
BP Pluse, Oxi	1	Welch Allyn 2 Cuffs
Phone	1	
OTO OPTH Scope wall mounted	1	
microscope	1	
computer	1	#011
hard drive	1	
Keyboard	1	
Mouse	1	
speakers	2	
BP wall mount	1	
oversized foot control wast container	1	Red
Sharps wallmount	1	
Glove Holder wallmount	3	
Disinfected boat	1	
scope handles-silver	2	portable
privacy screen	1	
chair	1	
chair	1	plastic
med waste container	1	white
floor sharpes container	1	

CC Jail Medical Inventory
as of 2-4-2011

Item Description	Quantity	Misc. Info
Wallmount hand sanitizer	1	
Sterilizer	1	
Biohazard fridge	1	White Gold Star
Oxygen concentrator	1	
3 tier OSHA ladder	1	blue
Bedside table- mobile	1	
Suction Pumps	2	
Nebulizer	1	Pulmo Aide
Back Wedge	1	blue
Blue Wheelchair	1	
Breast Pump	2	
Inmate Phone/blue	1	
Crutches	1	one set of two crutches
Metal Chair	1	

2-4-2011 Exam Room 4 Inventory

CC Jail Medical Inventory
as of 2-4-2011

Item Description	Quantity	Misc. Info
Exam Table	1	
Red/Black rolling med cart	1	3 drawer
Mayo	1	
Chart Bins	2	
4 drawer side table	1	
Magnify w/light	1	
Plastic Chair	1	
Chair	1	
Wallmount Welch Allyn OTO-OPTH	1	each w/2 scope
Wallmont BP Welch Allyn	1	
Wallmount Hand Sanitizer	1	
3 tier glove wallmount	1	
Monitor	1	#069
Mouse	1	
Keyboard	1	
Hard Drive	1	
Garbage Can	1	
Phone	1	
Foot Control Garbage	1	
Wall Clock	1	
3 Tier Vertical Paper	1	

2-4-2011 Exam Room 5 Inventory

CC Jail Medical Inventory
as of 2-4-2011

Item Description	Quantity	Misc. Info
Med carts- Diamond	2	3 full drawer- 1 small drawer
fax pharmacy- Diamond	1	
garage can	1	medium size
computer	1	#076
Hard Drive	1	
Mouse	1	
Speaker	2	
Phone	1	
Glove 3 Wallmount	1	
Desk Tiers	6	Black
Bulletin Board	1	
Dry erase board	1	

CC Jail Medical Inventory
as of 2-4-2011

Item Description	Quantity	Misc. Info
Richo Scanner/Printer	1	
Dig Helmer Fridge	1	Blue (CCHD's) Digital
GE Fridge	1	White
Bunn Coffee Maker	1	
Extra Large Garbage w/foot control	1	
xray table	1	
printer	1	
monitor	2	
keyboard	2	
hard drive	2	
file cabinet	1	5 drawer
rolling cart bin	2	
Oxygen cylinders	4	
oxygen rolling carts	2	
Oxygen Holder	1	
Frigidaire Fridge	1	black/silver
xray film cabinet	1	
xray control cabinet	1	
phone	1	
locker set	16	
table	1	square/seats 4
table wood/rolling	1	holding Ricoh copier
Rolling exam stools	2	
charis	6	
3 tier rolling cart	1	
xray film reader/lighted	1	
xray light	1	
mouse	2	
3 tier mailbox-wallmount	1	
stand up erase board	1	paper

CC Jail Medical Inventory
as of 2-4-2011

Item Description	Quantity	Misc. Info
Fax Machine	1	Savin
Exam Table	1	Black
White fridge	1	
White foot control garbage	1	
Welch Allyn OTO-OPTH	1	2 scopes- 1 each
Wallmount BP	1	
Wallmount Sharpes	1	
4 tier table organizer	1	
Monitor	1	#62
keyboard	1	
Mouse	1	
Ear thermometer- Welch Allyn	1	
AED Defib	1	Located by #150 door
Chair	2	
Plastic Chair	1	
Stool	1	
Blue Wheel Chair	1	
Multi Phone	1	

2-4-2011 Booking Exam Room Inventory

CC Jail Medical Inventory
as of 2-4-2011

Item Description	Quantity	Misc. Info
Dry erase board	1	
Med Cart Storage	1	
Wood 7 Tier paper holder	1	
Metal Chair	1	
Wallmount retractable shower chair	1	
Wallmount sharps container	1	
4 glove wallmount	1	
Large Garbage w/wheels	1	
Grey Wheelchair	1	

2-4-2011 Medical Iso Inventory

CC Jail Medical Inventory
as of 2-4-2011

Item Description	Quantity	Misc. Info
Phone	1	
Hand pump Hand Sanitizer	1	
sharps wall mount	1	
rolling chart bin	1	
computer	1	#03
mouse	1	
hard drive	1	
Blue 3 drawer medical cart	1	
3 glove wallmount	1	
wallmount bp	1	
OTO-OPTH Scopes	1	
Welch Allyn EP, Pulse Oxi	1	rolling- 2 cuff
Sharpes/floor	1	
privacy screen holder	1	w/o screen
BCI pulse Oxi 330	1	w/charger
Welch Allyn ear Therm	1	
3 tier wall holder	1	
key lock box/safe	1	
chair	1	
chair	1	plastic
exam table	1	
single glove wallmount	1	
BP Cuffs	4	

EXHIBIT B

HAS THE PRESCRIPTION OPIOID CRISIS AFFECTED YOU OR SOMEONE YOU KNOW? YOU COULD BE COMPENSATED FROM THE PURDUE PHARMA L.P. BANKRUPTCY

FILE YOUR CLAIM BY JUNE 30, 2020

WHAT IS THIS ABOUT?
If you think you've been hurt by Purdue Pharma L.P., a U.S. limited partnership, and its affiliated Debtor companies ("Purdue"), or Purdue prescription opioids, like OxyContin, or other prescription opioids manufactured or sold by Purdue, you can file a claim for compensation in the Purdue bankruptcy proceeding. The deadline to file a claim is June 30, 2020, at 5:00 p.m. Eastern Time.

WHAT IS A CLAIM AND WHO CAN FILE?
A "claim" means a right to seek payment or other compensation. You must file a Proof of Claim Form so it is actually received at the address indicated on the form's instructions by the deadline. It can be filed by you, by a legal guardian, by survivors, or by relatives of people who have died or are disabled. All "Personal Injury Claimant Proof of Claim Forms" and any supporting documentation will be kept highly confidential and will not be made available to the public. You do not need an attorney in order to file a Proof of Claim.



Additionally, partnerships, corporations, joint ventures, trusts, governmental units, and Native American Tribes may also file a claim against Purdue or any of its affiliated Debtor companies.

Go to **PurduePharmaClaims.com** to find a complete list of instructions on how to file a claim. You will also find a list of the opioids produced, manufactured or sold by Purdue or its subsidiaries.

You may file a Proof of Claim even if a settlement is contemplated in the Purdue bankruptcy so that your claim can be considered as part of any settlement.

> "ANYONE CAN BE IMPACTED BY PRESCRIPTION OPIOIDS."

IMPORTANT INFORMATION FOR YOU

WHO DOES THIS AFFECT AND WHAT ARE MY RIGHTS?
If you think you've suffered harm from Purdue or Purdue prescription opioids, you have the right to file a claim even if you may have also received reimbursement from insurance. Examples of claims that may be filed in the Purdue bankruptcy include death, addiction or dependence, lost wages, loss of spousal relationship benefit for things like child-rearing, enjoyment of life, etc., or Neonatal Abstinence Syndrome ("NAS"), among others.

THE DEADLINE TO FILE A CLAIM IS JUNE 30, 2020, AT 5:00 P.M. EASTERN TIME.
If you do not file a claim by the deadline, you will lose the right to file a claim against Purdue, and you will lose any right you may have had to seek payment or compensation. Proof of Claim Forms, a list of opioids manufactured or sold by Purdue, and instructions for how to file a claim are online at **PurduePharmaClaims.com**.

IS PURDUE OUT OF MONEY? No.

WHAT IS A BAR DATE?
The Bar Date is the court approved deadline for filing claims against Purdue for money owed or harm you believe was caused by acts or omissions of any of the Debtors (Purdue Pharma L.P. and its subsidiaries and general partner) from before the September 15, 2019 Chapter 11 filing date. The Bar Date has been established as June 30, 2020, at 5:00 p.m. Prevailing Eastern Time.

WHAT IS A PROOF OF CLAIM?
A "Proof of Claim" is the official form that a creditor or other interested party (or litigant, or someone who believes that Purdue has caused them damages) must submit in order to assert and support any claim against any or all of the Debtors. The Bankruptcy Court has approved four Proof of Claim Forms that seek certain baseline information that will be important for evaluating claims filed against the Debtors. These forms are: (i) a Non-Opioid Claimant Proof of Claim Form; (ii) a Governmental Opioid Claimant Proof of Claim Form; (iii) a General Opioid Claimant Proof of Claim Form; and (iv) a Personal Injury Claimant Proof of Claim Form.

THIS IS ONLY A SUMMARY
For more information concerning Purdue's bankruptcy, Frequently Asked Questions, examples of personal injury and other claims that can be filed, instructions on how to file a claim, and important documents including the Bar Date Notice, visit **PurduePharmaClaims.com.** You can also request a Proof of Claim Form by mail, phone or email:

Purdue Pharma Claims Processing Center
c/o Prime Clerk LLC
850 Third Avenue, Suite 412, Brooklyn, NY 11232
Toll Free: (844) 217-0912
Email: purduepharmainfo@primeclerk.com

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served on May 17, 2023, via this Court's electronic case filing (ECF) system on all parties receiving ECF notices in this case.

/s/ Jaqueline Aranda Osorno
Jaqueline Aranda Osorno

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re: TEHUM CARE SERVICES, INC. Debtor.	Chapter 11 Case No. 23-90086 (CML)

ORDER

Having considered the Motion for Leave to File *Amicus Curiae* Brief, it is hereby ORDERED that the Motion is granted.

Signed: _____, 2023

_____
Christopher M. Lopez
United States Bankruptcy Judge